

109TH CONGRESS
1ST SESSION

H. R. 2092

To amend the Immigration and Nationality Act to comprehensively reform immigration law and to better protect immigrant victims of violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2005

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Energy and Commerce, Agriculture, Homeland Security, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to comprehensively reform immigration law and to better protect immigrant victims of violence, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES TO ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Save America Comprehensive Immigration Act of 2005”.

1 (b) REFERENCES TO THE IMMIGRATION AND NA-
 2 TIONALITY ACT.—Except as otherwise expressly provided,
 3 whenever in this Act an amendment or repeal is expressed
 4 in terms of an amendment to, or repeal of, a section or
 5 other provision, the reference shall be considered to be
 6 made to a section or other provision of the Immigration
 7 and Nationality Act.

8 **TITLE I—FAMILY-BASED**
 9 **IMMIGRATION**

10 **SEC. 101. INCREASING THE ALLOCATION OF FAMILY-BASED**
 11 **IMMIGRANT VISAS.**

12 Section 201(c)(8 U.S.C. 115(c)) is amended to read
 13 as follows:

14 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
 15 IMMIGRANTS.—The worldwide level of family-sponsored
 16 immigrants under this subsection for a fiscal year shall
 17 be no more than 960,000.”.

18 **SEC. 102. PROTECTION AGAINST PROCESSING DELAYS.**

19 (a) AGE-OUT PROTECTION FOR CHILDREN.—

20 (1) IN GENERAL.—Chapter 1 of title IV (8
 21 U.S.C. 1101 note) is amended by adding at the end
 22 the following:

23 “AGE-OUT PROTECTION FOR CHILDREN

24 “SEC. 408. (a) IN GENERAL.—In the case of an ap-
 25 plication initially to grant a benefit under this Act (other
 26 than an application for naturalization) that otherwise

1 would be granted only after a determination that the bene-
 2 ficiary of the application is a child (such as classification
 3 as an immediate relative under section 201(b)(2)(A)(i)),
 4 if the application is neither approved nor denied (on proce-
 5 dural or substantive grounds) during the 90-day period
 6 beginning on the date of the filing of the application, the
 7 beneficiary shall be considered to be a child for all pur-
 8 poses related to the receipt of the benefit if the beneficiary
 9 was a child on the last day of such 90-day period, and
 10 the beneficiary shall not otherwise be prejudiced with re-
 11 spect to such determination by such delay, and shall be
 12 considered to be a child under this Act for all purposes
 13 related to such application.

14 “(b) TERMINATION OF BENEFIT.—Subsection (a)
 15 shall remain in effect until the termination of the 1-year
 16 period beginning on the date on which the application de-
 17 scribed in such paragraph is approved.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
 19 tents is amended by inserting after the item relating
 20 to section 407 the following:

“Sec. 408. Age-out protection for children.”.

21 (b) TIMELINESS OF ADOPTION FOR IMMIGRATION
 22 PURPOSES.—

23 (1) IN GENERAL.—Section 101(b)(1)(E)(i) (8
 24 U.S.C. 1101(b)(1)(E)(i)) is amended by striking “a
 25 child adopted while under the age of sixteen years”

1 and inserting “a child, under the age of 16 when
2 adoption proceedings were initiated,”.

3 (2) SPECIAL RULE FOR SIBLINGS.—Section
4 101(b)(1)(E)(ii)(III) (8 U.S.C.
5 1101(b)(1)(E)(ii)(III)) is amended by striking
6 “adopted while under the age of 18 years” and in-
7 serting “under the age of 18 when adoption pro-
8 ceedings were initiated”.

9 **SEC. 103. TEMPORARY STATUS PENDING RECEIPT OF PER-**
10 **MANENT RESIDENT STATUS.**

11 (a) CLASSES OF NONIMMIGRANT ALIENS.—Section
12 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)) is amended—

13 (1) by striking “or” at the end of clause (ii);

14 (2) by adding “or” at the end of clause (iii);

15 and

16 (3) by adding at the end the following:

17 “(iv)(I) has concluded a valid mar-
18 riage with an alien lawfully admitted for
19 permanent residence, is the parent of a cit-
20 izen of the United States, or is the child,
21 son, or daughter of an alien lawfully ad-
22 mitted for permanent residence or a citizen
23 of the United States; (II) is the beneficiary
24 of an approved petition to accord immi-
25 grant status on the basis of such family re-

1 lationship that was filed under section 204
2 by such family member; (III) has available
3 to the alien an immigrant visa number;
4 (IV) has waited more than 6 months for
5 the issuance of an immigrant visa based
6 upon an application made by the alien; and
7 (V) seeks to enter the United States to
8 await such issuance;”.

9 (b) ADMISSION OF NONIMMIGRANTS.—Section
10 214(d) (8 U.S.C. 1184(d)) is amended—

11 (1) by striking “(d)” and inserting “(d)(1)”;
12 and

13 (2) by adding at the end the following:

14 “(2) A visa shall not be issued under the provisions
15 of section 101(a)(15)(K)(iv) until the consular officer has
16 received a petition filed in the United States by the lawful
17 permanent resident or citizen relative of the applying alien
18 and approved by the Secretary of Homeland Security. The
19 petition shall be in such form and contain such informa-
20 tion as the Secretary shall, by regulation, prescribe.”.

21 **SEC. 104. ELIMINATION OF AFFIDAVIT OF SUPPORT RE-**
22 **QUIREMENT.**

23 (a) GROUNDS FOR INELIGIBILITY FOR ADMISSION.—
24 Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended—

1 (1) by amending subparagraph (B)(ii) to read
 2 as follows:

3 “(ii) If an alien submits an affidavit of
 4 support described in section 213A, in addition
 5 to the factors under clause (i), the consular of-
 6 ficer or the Attorney General shall also consider
 7 such affidavit in determining whether the alien
 8 is inadmissible under this paragraph.”; and

9 (2) by striking subparagraphs (C) and (D).

10 (b) REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF
 11 SUPPORT.—Subsections (a)(1)(A), (f)(1)(E), and
 12 (f)(4)(B)(i) of section 213A (8 U.S.C. 1183a(a)(1)(A),
 13 (f)(1)(E), and (f)(4)(B)(i)) are amended by striking
 14 “125” and inserting “100”.

15 **SEC. 105. ACQUISITION OF CITIZENSHIP FOR CHILDREN**
 16 **BORN ABROAD AND OUT OF WEDLOCK TO A**
 17 **UNITED STATES CITIZEN FATHER.**

18 (a) REQUIREMENTS FOR CITIZENSHIP ELIGI-
 19 BILITY.—Section 309(a) (8 U.S.C. 1409(a)) is amended—

20 (1) in paragraph (2), by adding “and” at the
 21 end;

22 (2) by striking paragraph (3);

23 (3) in paragraph (4), by striking “while the
 24 person is under the age of 18 years—” and inserting
 25 “at any time—”; and

1 (4) by redesignating paragraph (4) as para-
2 graph (3).

3 (b) CLARIFICATION REGARDING DECEASED PAR-
4 ENTS OF CHILDREN BORN ABROAD AND OUT OF WED-
5 LOCK.—Section 309 (8 U.S.C. 1409) is amended by add-
6 ing at the end the following:

7 “(d) Nothing in this section shall be construed to pre-
8 clude a person who is a citizen or national of the United
9 States by virtue of a provision of this section from estab-
10 lishing such status under this title after the death of the
11 person’s father, mother, or parents.”.

12 (c) APPLICATION OF CITIZENSHIP PROVISIONS.—
13 The amendments made by this Act shall apply to persons
14 born out of wedlock who are alive on or after the date
15 of the enactment of this Act.

16 **SEC. 106. ALLOW AUNTS AND UNCLES OR GRANDPARENTS**
17 **TO ADOPT ORPHANED OR ABANDONED CHIL-**
18 **DREN OF THE DECEASED RELATIVE.**

19 Section 101(b) is amended by—

20 (1) striking “or” at the end of subparagraph
21 (E) and inserting a semicolon;

22 (2) striking the period at the end of subpara-
23 graph (F) and inserting “; or”; and

24 (3) by inserting the following subparagraph:

“(G) a child adopted in the United States or abroad or who is coming to the United States for adoption by a grandparent, aunt or uncle while under the age of eighteen years, who has suffered the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing proper care and has consented in writing to the adoption, if the Secretary of Homeland Security is satisfied that proper care will be furnished the child if admitted to the United States. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. Nothing in this subsection shall be construed to require the child to be released to an orphanage as a prerequisite for eligibility.”.

SEC. 107. ELIMINATING THE WIDOWED IMMIGRANTS 2-YEAR MARRIAGE PENALTY AND SURVIVING IMMEDIATE RELATIVES PENALTY.

(a) REQUIREMENTS FOR ELIMINATING WIDOW PENALTY.—Section 201(b)(2)(A)(i) (8 U.S.C. 1151 (b)(2)(A)(i)) is amended—

1 (1) by striking “for at least 2 years”;

2 (2) by inserting “, and if married for less than
3 two years at the time of the citizen’s death proves
4 by a preponderance of the evidence that the mar-
5 riage was entered into in good faith and not solely
6 for the purpose of obtaining an immigration ben-
7 efit,” after “within 2 years after such date”; and

8 (3) by inserting the following sentence after the
9 sentence ending with “remarries.”: “In the case of
10 an alien who was the child or parent of a citizen of
11 the United States at the time of the citizen’s death,
12 the alien shall be considered, for purposes of this
13 subsection, to remain an immediate relative after the
14 date of the citizen’s death but only if the alien files
15 a petition under section 204(a)(1)(A)(ii), as amend-
16 ed, within two years after such date in the case of
17 a parent, or prior to reaching the age of 21 in the
18 case of a child.”.

19 (b) REQUIREMENTS FOR ELIMINATING SURVIVING
20 IMMEDIATE RELATIVE PENALTY.—Section
21 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended
22 by inserting “or an alien child or alien parent described
23 in the third sentence of section 201(b)(2)(A)(i)” after
24 “section 201(b)(2)(A)(i)”.

1 (c) TRANSITION PERIOD.—In applying section
2 201(b)(2)(A)(i) (8 U.S.C. 1154(b)(2)(A)(i)), as amended,
3 in the case of an alien whose citizen relative died before
4 the date of the enactment of this Act, the alien relative
5 may (notwithstanding the deadlines specified in such sub-
6 section) file the classification petition referred to in such
7 subsection within 2 years after the date of the enactment
8 of this Act.

9 (d) APPLICATIONS FOR ADJUSTMENT OF STATUS.—
10 Section 245 (8 U.S.C. 1255) is amended by adding at the
11 end the following:

12 “(n) APPLICATIONS FOR ADJUSTMENT OF STATUS
13 BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.—

14 “(1) IN GENERAL.—Notwithstanding sub-
15 sections (a) and (c) (except subsection (c)(6)) of sec-
16 tion 245 of the Immigration and Nationality Act (8
17 U.S.C. 1255), any alien described in paragraph (2)
18 who applied for adjustment of status prior to the
19 death of the qualifying relative, may have such ap-
20 plication adjudicated as if such death had not oc-
21 curred.

22 “(2) ALIEN DESCRIBED.—An alien is described
23 in this paragraph if the alien was—

24 “(A) an immediate relative as described in
25 section 201(b)(2)(A)(i);

1 “(B) a family-sponsored immigrant as de-
2 scribed in section 203(a) or (d);

3 “(C) a derivative beneficiary of an employ-
4 ment-based immigrant under section 203(b), as
5 described in section 203(d); or

6 “(D) a derivative beneficiary of a diversity
7 immigrant as described in section 203(c).”.

8 (e) **TRANSITION PERIOD.**—Notwithstanding a prior
9 denial of an application for adjustment of status, in the
10 case of an alien whose qualifying relative died before the
11 date of the enactment of this Act, such application may
12 be renewed by the alien through a motion to reopen, with-
13 out fee, filed within two years after the date of the enact-
14 ment of this Act. In the case of an alien who was deported,
15 removed, or departed voluntarily before the date of the
16 enactment of this Act, such alien shall be eligible for pa-
17 role into the United States pursuant to the Attorney Gen-
18 eral’s authority under section 212(d)(5), and such alien’s
19 application for adjustment of status shall be considered
20 notwithstanding section 212(a)(9).

21 **SEC. 108. ELIMINATING THE WIDOWED PERMANENT RESI-**
22 **DENT’S NATURALIZATION PENALTY.**

23 Section 319(a) (8 U.S.C. 1429(a)) is amended by in-
24 serting “or, if the spouse is deceased, the spouse was a

1 citizen of the United States,” after “(a) Any person whose
2 spouse is a citizen of the United States,”.

3 **TITLE II—LEGALIZATION FOR** 4 **LONG-TERM RESIDENTS**

5 **SEC. 201. EARNED ACCESS TO LEGALIZATION.**

6 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
7 1255 et seq.) is amended by inserting after section 245A
8 the following:

9 “ADJUSTMENT OF STATUS ON THE BASIS OF EARNED
10 ACCESS TO LEGALIZATION

11 “SEC. 245B. (a) IN GENERAL.—The Secretary of
12 Homeland Security may adjust the status of an alien to
13 that of an alien lawfully admitted for permanent residence
14 if the alien—

15 “(1) was physically present in the United
16 States for a continuous period of not less than 5
17 years immediately preceding the date on which this
18 provision was enacted and has maintained contin-
19 uous physical presence since then;

20 “(2) has at all times been a person of good
21 moral character;

22 “(3) has never been convicted of a criminal of-
23 fense in the United States;

24 “(4) in the case of an alien who is 18 years of
25 age or older, but who is not over the age of 65, has
26 successfully completed a course on reading, writing,

1 and speaking words in ordinary usage in the English
2 language, unless unable to do so on account of phys-
3 ical or developmental disability or mental impair-
4 ment;

5 “(5) in the case of an alien 18 years of age or
6 older, has accepted the values and cultural life of the
7 United States; and

8 “(6) in the case of an alien 18 years of age or
9 older, has performed at least 40 hours of community
10 service.

11 “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-
12 CENT ABSENCES.—An alien shall not be considered to
13 have failed to maintain a continuous presence in the
14 United States for purposes of subsection (a)(1) by virtue
15 of brief, casual, and innocent absences from the United
16 States.

17 “(c) ADMISSIBLE AS IMMIGRANT.—

18 “(1) IN GENERAL.—The alien shall establish
19 that the alien is admissible to the United States as
20 immigrant, except as otherwise provided in para-
21 graph (2).

22 “(2) EXCEPTIONS.—The provisions of para-
23 graphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G),
24 (7)(A), (9)(B), and (9)(C)(i)(I) of section 212(a)

1 shall not apply in the determination of an alien’s ad-
2 missibility under this section.

3 “(d) SECURITY AND LAW ENFORCEMENT CLEAR-
4 ANCES.—The alien, if over 15 years of age, shall submit
5 fingerprints in accordance with procedures established by
6 the Secretary of Homeland Security. Such fingerprints
7 shall be submitted to relevant Federal agencies to be
8 checked against existing databases for information relat-
9 ing to criminal, national security, or other law enforce-
10 ment actions that would render the alien ineligible for ad-
11 justment of status under this section. The Secretary of
12 Homeland Security shall provide a process for challenging
13 the accuracy of matches that result in a finding of ineligi-
14 bility for adjustment of status.

15 “(e) INAPPLICABILITY OF NUMERICAL LIMITA-
16 TIONS.—When an alien is granted lawful permanent resi-
17 dent status under this subsection, the number of immi-
18 grant visas authorized to be issued under any provision
19 of this Act shall not be reduced. The numerical limitations
20 of sections 201 and 202 shall not apply to adjustment of
21 status under this section.

22 “(f) TERMINATION OF PROCEEDINGS.—The Sec-
23 retary of Homeland Security may terminate removal pro-
24 ceedings without prejudice pending the outcome of an
25 alien’s application for adjustment of status under this sec-

1 tion on the basis of a prima facie showing of eligibility
2 for relief under this section.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 is amended by inserting after the item relating to section
5 245A the following:

“Sec. 245B. Adjustment of status on the basis of earned access to legalization.”.

6 **SEC. 202. LEGALIZATION PROVISIONS FOR CHILDREN.**

7 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
8 1255 et seq.), as amended by section 201, is further
9 amended by inserting after section 245B the following:

10 “ADJUSTMENT OF STATUS FOR CERTAIN CHILDREN

11 “SEC. 245C. (a) IN GENERAL.—The Secretary of
12 Homeland Security may adjust the status of an alien to
13 that of an alien lawfully admitted for permanent residence
14 if the alien is a child at the time of filing the application
15 for such adjustment and establishes that the alien, at such
16 time—

17 “(1) has been physically present and enrolled in
18 school in the United States for a continuous period
19 of not less than 5 years immediately preceding the
20 date of such application, and during that period has
21 been a person of good moral character;

22 “(2) has fully integrated into life in the United
23 States;

1 “(3) has learned English or is satisfactorily
2 pursuing a course of study to achieve an under-
3 standing of English;

4 “(4) is successfully pursuing an elementary
5 school, middle school, high school, or college-level
6 education; and

7 “(5) if older than 13 years of age, has per-
8 formed at least 60 hours of community service.

9 “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-
10 CENT ABSENCES.—An alien shall not be considered to
11 have failed to maintain a continuous presence in the
12 United States for purposes of subsection (a)(1) by virtue
13 of brief, casual, and innocent absences from the United
14 States.

15 “(c) ADMISSIBLE AS IMMIGRANT.—

16 “(1) IN GENERAL.—The alien shall establish
17 that the alien is admissible to the United States as
18 an immigrant, except as otherwise provided in para-
19 graph (2).

20 “(2) APPLICABILITY OF CERTAIN PROVI-
21 SIONS.—

22 “(A) GROUNDS OF INADMISSIBILITY NOT
23 APPLIED.—The provisions of paragraphs (5),
24 (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7)(A),
25 (9)(B), and (9)(C) of section 212(a) shall not

1 apply in the determination of an alien's admis-
2 sibility under this section.

3 “(B) WAIVER OF OTHER GROUNDS.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), the Secretary of Home-
6 land Security may waive any other provi-
7 sion of section 212(a) in the case of an in-
8 dividual alien for humanitarian purposes,
9 to assure family unity, or when it is other-
10 wise in the public interest.

11 “(ii) GROUNDS THAT MAY NOT BE
12 WAIVED.—The following provisions of sec-
13 tion 212(a) may not be waived by the Sec-
14 retary under clause (i):

15 “(I) Paragraphs (2)(A) and
16 (2)(B) (relating to criminals).

17 “(II) Paragraph (2)(C) (relating
18 to drug offenses), except for so much
19 of such paragraph as relates to a sin-
20 gle offense of simple possession of 30
21 grams or less of marijuana.

22 “(III) Paragraph (3) (relating to
23 security and related grounds).

1 “(d) NO NUMERICAL LIMITATIONS.—The numerical
2 limitations of sections 201 and 202 shall not apply to ad-
3 justment of status under this section.

4 “(e) CONFIDENTIALITY OF INFORMATION.—Except
5 as provided in this section, neither the Secretary of Home-
6 land Security, nor any other official or employee of the
7 Department of Homeland Security, may—

8 “(1) use information furnished by applicant for
9 an application filed under this section for any pur-
10 pose other than to make a determination on the ap-
11 plication;

12 “(2) make any publication whereby the infor-
13 mation furnished by any particular applicant can be
14 identified; or

15 “(3) permit anyone other than the sworn offi-
16 cers and employees of the Department, the appli-
17 cant, or a representative of the applicant to examine
18 individual applications.

19 “(f) DISSEMINATION OF INFORMATION.—The Sec-
20 retary of Homeland Security shall broadly disseminate in-
21 formation respecting the benefits which aliens may receive
22 under this section and the requirements to obtain such
23 benefits.”.

1 (b) CLERICAL AMENDMENT.—The table of contents,
 2 as amended by section 201, is amended further by insert-
 3 ing after the item relating to section 245B the following:

“Sec. 245C. Adjustment of status for certain children.”.

4 **SEC. 203. UPDATED REGISTRY PROVISION.**

5 (a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is
 6 amended—

7 (1) in the section heading by striking “1972”
 8 and inserting “1986”; and

9 (2) in paragraph (a), by striking “1972” and
 10 inserting “1986”.

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 is amended in the item relating to section 249 by striking
 13 “1972” and inserting “1986”.

14 **TITLE III—BORDER SECURITY**
 15 **PROVISIONS**

16 **SEC. 301. INCREASE THE NUMBER OF INSPECTORS AT AIR-**
 17 **PORT AND LAND BORDER INSPECTION STA-**
 18 **TIONS.**

19 In each of the fiscal years 2007 through 2011, the
 20 Secretary of Homeland Security shall, subject to the avail-
 21 ability of appropriations for such purpose, increase by not
 22 less than 1,000 the number of positions for full-time active
 23 duty immigration inspectors at airport and land border in-
 24 spection stations within the Department of Homeland Se-

1 curity above the number of such positions for which funds
2 were allotted for the preceding fiscal year.

3 **SEC. 302. ESTABLISH A SPECIAL TASK FORCE FOR COORDI-**
4 **NATING AND DISTRIBUTING INFORMATION**
5 **ON FRAUDULENT IMMIGRATION DOCU-**
6 **MENTS.**

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity shall establish a task force (to be known as the Task
9 Force on Fraudulent Immigration Documents) to carry
10 out the following:

11 (1) Collect information from Federal, State and
12 local law enforcement agencies, and Foreign govern-
13 ments on the production, sale, and distribution of
14 fraudulent documents intended to be used to enter
15 or to remain in the United States unlawfully.

16 (2) Maintain that information in a comprehen-
17 sive database.

18 (3) Convert the information into reports that
19 will provide guidance for government officials on
20 identifying fraudulent documents being used to enter
21 or to remain in the United States unlawfully.

22 (4) Develop a system for distributing these de-
23 ports on an ongoing basis to appropriate Federal,
24 State and local law enforcement agencies.

1 (b) DISTRIBUTION OF INFORMATION.—Distribute the
2 reports to appropriate Federal, State and local law en-
3 forcement agencies on an ongoing basis.

4 **SEC. 303. NEW NONIMMIGRANT VISA CLASSIFICATION TO**
5 **ENABLE INFORMANTS TO ENTER THE**
6 **UNITED STATES AND REMAIN TEMPORARILY.**

7 (a) IN GENERAL.—Section 101(a)(15)(S) (8 U.S.C.
8 1101(a)(15)(S)) is amended—

9 (1) in clause (i), by striking “or” at the end;
10 (2) in clause (ii), by striking the comma at the
11 end and inserting “; or”;

12 (3) by inserting after clause (ii) the following:

13 “(iii) who the Secretary of Homeland
14 Security, the Secretary of State, or the At-
15 torney General determines—

16 “(I) is in possession of critical re-
17 liable information concerning a com-
18 mercial alien smuggling organization
19 or enterprise or a commercial oper-
20 ation for making or trafficking in doc-
21 uments to be used for entering or re-
22 maining in the United States unlaw-
23 fully;

1 “(II) is willing to supply or has
2 supplied such information to a Fed-
3 eral or State court; or

4 “(III) whose presence in the
5 United States the Secretary of Home-
6 land Security, the Secretary of State,
7 or the Attorney General determines is
8 essential to the success of an author-
9 ized criminal investigation, the suc-
10 cessful prosecution of an individual in-
11 volved in the commercial alien smug-
12 gling organization or enterprise, or
13 the disruption of such organization or
14 enterprise or a commercial operation
15 for making or trafficking in docu-
16 ments to be used for entering or re-
17 maining in the United States unlaw-
18 fully. ”;

19 (4) by inserting “, or with respect to clause
20 (iii), the Secretary of Homeland Security, the Sec-
21 retary of State, or the Attorney General” after
22 “jointly”; and

23 (5) by striking “(i) or (ii)” and inserting “(i),
24 (ii), or (iii)”.

1 (b) ADMISSION OF NONIMMIGRANTS.—Section
 2 214(k) (8 U.S.C. 1184(k)) is amended—

3 (1) by adding at the end of paragraph (1) the
 4 following:

5 “The number of aliens who may be provided a visa as non-
 6 immigrants under section 101(a)(15)(S)(iii) in any fiscal
 7 year may not exceed 400.”; and

8 (2) by adding at the end the following:

9 “(5) If the Secretary of Homeland Security, the
 10 Secretary of State, or the Attorney General deter-
 11 mines that a nonimmigrant described in clause (iii)
 12 of section 101(a)(15)(S), or that of any family mem-
 13 ber of such a nonimmigrant who is provided non-
 14 immigrant status pursuant to such section, must be
 15 protected, such official may take such lawful action
 16 as the official considers necessary to effect such pro-
 17 tection.”.

18 **SEC. 304. ADJUSTMENT OF STATUS WHEN NEEDED TO PRO-**
 19 **TECT INFORMANTS.**

20 Section 245(j) (8 U.S.C. 1255(j)) is amended—

21 (1) in paragraph (3), by striking “(1) or (2),”
 22 and inserting “(1), (2), (3), or (4),”;

23 (2) by redesignating paragraph (3) as para-
 24 graph (5);

1 (3) by inserting after paragraph (2) the fol-
2 lowing:

3 “(3) If, in the opinion of the Secretary of
4 Homeland Security, the Secretary of State, or the
5 Attorney General—

6 “(A) a nonimmigrant admitted into the
7 United States under section 101(a)(15)(S)(iii)
8 has supplied information described in subclause
9 (I) of such section; and

10 “(B) the provision of such information has
11 substantially contributed to the success of a
12 commercial alien smuggling investigation or an
13 investigation of the sale or production of fraud-
14 ulent documents to be used for entering or re-
15 maining in the United States unlawfully, the
16 disruption of such an enterprise, or the pros-
17 ecution of an individual described in subclause
18 (III) of that section,

19 the Secretary of Homeland Security may adjust the
20 status of the alien (and the spouse, children, mar-
21 ried and unmarried sons and daughters, and parents
22 of the alien if admitted under that section) to that
23 of an alien lawfully admitted for permanent resi-
24 dence if the alien is not described in section
25 212(a)(3)(E).

1 “(4) The Secretary of Homeland Security may
 2 adjust the status of a nonimmigrant admitted into
 3 the United States under section 101(a)(15)(S)(iii)
 4 (and the spouse, children, married and unmarried
 5 sons and daughters, and parents of the non-
 6 immigrant if admitted under that section) to that of
 7 an alien lawfully admitted for permanent residence
 8 on the basis of a recommendation of the Secretary
 9 of State or the Attorney General.”; and

10 (4) by adding at the end the following:

11 “(6) If the Secretary of Homeland Security, the
 12 Secretary of State, or the Attorney General deter-
 13 mines that a person whose status is adjusted under
 14 this subsection must be protected, such official may
 15 take such lawful action as the official considers nec-
 16 essary to effect such protection.”.

17 **SEC. 305. REWARDS PROGRAM.**

18 (a) REWARDS PROGRAM.—Section 274 (8 U.S.C.
 19 1324) is amended by adding at the end the following:

20 “(e) REWARDS PROGRAM.—

21 “(1) IN GENERAL.—There is established in the
 22 Department of Homeland Security a program for
 23 the payment of rewards to carry out the purposes of
 24 this section.

1 “(2) PURPOSE.—The rewards program shall be
2 designed to assist in the elimination of commercial
3 operations to produce or sell fraudulent documents
4 to be used for entering or remaining in the United
5 States unlawfully and to assist in the investigation,
6 prosecution, or disruption of a commercial alien
7 smuggling operation.

8 “(3) ADMINISTRATION.—The rewards program
9 shall be administered by the Secretary of Homeland
10 Security, in consultation, as appropriate, with the
11 Attorney General and the Secretary of State.

12 “(4) REWARDS AUTHORIZED.—In the sole dis-
13 cretion of the Secretary of Homeland Security, such
14 Secretary, in consultation, as appropriate, with the
15 Attorney General and the Secretary of State, may
16 pay a reward to any individual who furnishes infor-
17 mation or testimony leading to—

18 “(A) the arrest or conviction of any indi-
19 vidual conspiring or attempting to produce or
20 sell fraudulent documents to be used for enter-
21 ing or remaining in the United States unlaw-
22 fully or to commit an act of commercial alien
23 smuggling involving the transportation of aliens
24 in groups of 10 or more—

1 “(i) in a manner that endangers their
2 lives; or

3 “(ii) who present a life-threatening
4 health risk to people in the United States;

5 “(B) the arrest or conviction of any indi-
6 vidual committing such an act;

7 “(C) the arrest or conviction of any indi-
8 vidual aiding or abetting the commission of
9 such an act;

10 “(D) the prevention, frustration, or favor-
11 able resolution of such an act, including the dis-
12 mantling of an operation to produce or sell
13 fraudulent documents to be used for entering or
14 remaining in the United States, or commercial
15 alien smuggling operations, in whole or in sig-
16 nificant part; or

17 “(E) the identification or location of an in-
18 dividual who holds a key leadership position in
19 an operation to produce or sell fraudulent docu-
20 ments to be used for entering or remaining in
21 the United States unlawfully or a commercial
22 alien smuggling operation involving the trans-
23 portation of aliens in groups of 10 or more—

24 “(i) in a manner that endangers their
25 lives; or

1 “(ii) who present a life-threatening
2 health risk to people in the United States.

3 “(5) AUTHORIZATION OF APPROPRIATIONS.—
4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this subsection.
6 Amounts appropriated under this paragraph shall
7 remain available until expended.

8 “(6) INELIGIBILITY.—An officer or employee of
9 any Federal, State, local, or foreign government
10 who, while in performance of his or her official du-
11 ties, furnishes information described in paragraph
12 (4) shall not be eligible for a reward under this sub-
13 section for such furnishing.

14 “(7) PROTECTION MEASURES.—If the Secretary
15 of Homeland Security, the Secretary of State, or the
16 Attorney General determines that an individual who
17 furnishes information or testimony described in
18 paragraph (4), or any spouse, child, parent, son, or
19 daughter of such an individual, must be protected,
20 such official may take such lawful action as the offi-
21 cial considers necessary to effect such protection.

22 “(8) LIMITATIONS AND CERTIFICATION.—

23 “(A) MAXIMUM AMOUNT.—No reward
24 under this subsection may exceed \$100,000, ex-

1 cept as personally authorized by the Secretary
2 of Homeland Security.

3 “(B) APPROVAL.—Any reward under this
4 subsection exceeding \$50,000 shall be person-
5 ally approved by the Secretary of Homeland Se-
6 curity.

7 “(C) CERTIFICATION FOR PAYMENT.—Any
8 reward granted under this subsection shall be
9 certified for payment by the Secretary of Home-
10 land Security.”.

11 **SEC. 306. OUTREACH PROGRAM.**

12 Section 274 (8 U.S.C. 1324), as amended by sub-
13 section (a), is further amended by adding at the end the
14 following:

15 “(f) OUTREACH PROGRAM.—The Secretary of Home-
16 land Security, in consultation, as appropriate, with the At-
17 torney General and the Secretary of State, shall develop
18 and implement an outreach program to educate the public
19 in the United States and abroad about—

20 “(1) the penalties for—

21 “(A) bringing in and harboring aliens in
22 violation of this section; and

23 “(B) participating in a commercial oper-
24 ation for making, or trafficking in, documents

1 to be used for entering or remaining in the
 2 United States unlawfully; and

3 “(2) the financial rewards and other incentives
 4 available for assisting in the investigation, disrup-
 5 tion, or prosecution of a commercial smuggling oper-
 6 ation or a commercial operation for making, or traf-
 7 ficking in, documents to be used for entering or re-
 8 maining in the United States unlawfully”.

9 **TITLE IV—EMPLOYMENT-BASED** 10 **IMMIGRATION**

11 **SEC. 401. UNFAIR IMMIGRATION-RELATED EMPLOYMENT** 12 **PRACTICES.**

13 Section 274B (8 U.S.C. 1324b) is amended—

14 (1) in subsection (a)(5)—

15 (A) by amending the paragraph heading to
 16 read “PROHIBITION OF INTIMIDATION, RETAL-
 17 IATION, OR UNLAWFUL DISCRIMINATION IN
 18 EMPLOYMENT”;

19 (B) by moving the text down and to the
 20 right 2 ems;

21 (C) by inserting before such text the fol-
 22 lowing: “(A) IN GENERAL.—”; and

23 (D) by adding at the end the following:

24 “(B) FEDERAL LABOR OR EMPLOYMENT
 25 LAWS.—It is an unfair employment practice for

1 any employer to directly or indirectly threaten
2 any individual with removal or any other ad-
3 verse consequences pertaining to that individ-
4 ual's immigration status or employment bene-
5 fits for the purpose of intimidating, pressuring,
6 or coercing any such individual not to exercise
7 any right protected by State or Federal labor or
8 employment law (including section 7 of the Na-
9 tional Labor Relations Act (29 U.S.C. 157)), or
10 for the purpose of retaliating against any such
11 individual for having exercised or having stated
12 an intention to exercise any such right.

13 “(C) DISCRIMINATION BASED ON IMMIGRA-
14 TION STATUS.—It is an unfair employment
15 practice for any employer, except to the extent
16 specifically authorized or required by law, to
17 discriminate in any term or condition of em-
18 ployment against any individual employed by
19 such employer on the basis of such individual's
20 immigration status.”; and

21 (2) in subsection (c)(2), by adding at the end
22 the following: “The Special Counsel shall not dis-
23 close to the Secretary of Homeland Security or any
24 other government agency or employee, and shall not
25 cause to be published in a manner that discloses to

1 the Secretary of Homeland Security or any other
2 government agency or employee, any information ob-
3 tained by the Special Counsel in any manner con-
4 cerning the immigration status of any individual who
5 has filed a charge under this section, or the identity
6 of any individual or entity that is a party or witness
7 to a proceedings brought pursuant to such charge.
8 The Secretary of Homeland Security may not rely,
9 in whole or in part, in any enforcement action or re-
10 moval proceeding, upon any information obtained as
11 a result of the filing or prosecution of an unfair im-
12 migration-related employment practice charge. For
13 purposes of this paragraph, the term ‘Special Coun-
14 sel’ includes individuals formerly appointed to the
15 position of Special Counsel and any current or
16 former employee of the office of the Special Counsel.
17 Whoever knowingly uses, publishes, or permits infor-
18 mation to be used in violation of this paragraph
19 shall be fined not more than \$10,000.”.

20 **SEC. 402. DEPARTMENT OF LABOR TASK FORCE.**

21 The Secretary of Labor, in consultation with the At-
22 torney General and the Secretary of Homeland Security,
23 shall conduct a national study of American workplaces to
24 determine the causes, extent, circumstances, and con-
25 sequences, of exploitation of undocumented alien workers

1 by their employers. As part of this study, the Secretary
2 of Labor shall create a plan for targeted review of Federal
3 labor law enforcement in industries with a substantial im-
4 migrant workforce, for the purpose of identifying, moni-
5 toring, and deterring frequent or egregious violators of
6 wage and hour, antidiscrimination, National Labor Rela-
7 tions Act, and workplace safety and health requirements.
8 Not later than 18 months after the date of the enactment
9 of this Act, the Secretary of Labor shall submit to the
10 Congress a report describing the results of the study and
11 the Secretary's recommendations based on the study.

12 **SEC. 403. RECRUITMENT OF AMERICAN WORKERS.**

13 Section 214 is amended—

14 (1) by redesignating subsections (m) (as added
15 by section 105 of Public Law 106–313), (n) (as
16 added by section 107(e) of Public Law 106–386),
17 (o) (as added by section 1513(c) of Public Law 106–
18 386), (o) (as added by section 1102(b) of the Legal
19 Immigration Family Equity Act), and (p) (as added
20 by section 1503(b) of the Legal Immigration Family
21 Equity Act) as subsections (n), (o), (p), (q), and (r),
22 respectively; and

23 (2) by adding at the end the following:

24 “(s)(1) No petition to accord employment status
25 under any nonimmigrant classification described in section

1 101(a)(15) shall be granted in the absence of an affidavit
2 from the petitioner describing the efforts that were made
3 to recruit an alien lawfully admitted for permanent resi-
4 dence or a citizen of the United States before resorting
5 to a petition to obtain a foreign employee. The recruitment
6 efforts must have included substantial attempts to find
7 employees in minority communities. Recruitment efforts in
8 minority communities should include at least one of the
9 following, if appropriate for the employment being adver-
10 tised:

11 “(A) Advertise the availability of the job oppor-
12 tunity for which the employer is seeking a worker in
13 local newspapers in the labor market that is likely
14 to be patronized by a potential worker for at least
15 5 consecutive days.

16 “(B) Undertake efforts to advertise the avail-
17 ability of the job opportunity for which the employer
18 is seeking a worker through advertisements in public
19 transportation systems.

20 “(C) To the extent permitted by local laws and
21 regulations, engage in recruitment activities in sec-
22 ondary schools, recreation centers, community cen-
23 ters, and other places throughout the communities
24 within 50 miles of the job site that serve minorities.

1 “(2)(A) The Secretary of Homeland Security shall
2 impose a 10 percent surcharge on all fees collected for pe-
3 titions to accord employment status and shall use these
4 funds to establish an employment training program which
5 will include unemployed workers in the United States who
6 need to be trained or retrained. The purpose of this pro-
7 gram shall be to increase the number of lawful permanent
8 residents and citizens of the United States who are avail-
9 able for employment in the occupations that are the sub-
10 jects of such petitions. At least 50 percent of the funds
11 generated by this provision must be used to train Amer-
12 ican workers in rural and inner-city areas.

13 “(B) The Secretary of Homeland Security shall re-
14 serve and make available to the Secretary of Labor a por-
15 tion of the funds collected under this paragraph. Such
16 funds shall be used by the Secretary of Labor to establish
17 an ‘Office to Preserve American Jobs’ within the Depart-
18 ment of Labor. The purpose of this office shall be to estab-
19 lish policies intended to ensure that employers in the
20 United States will hire available workers in the United
21 States before resorting to foreign labor, giving substantial
22 emphasis to hiring minority workers in the United
23 States.”.

1 **TITLE V—REMOVAL WAIVERS**

2 **SEC. 501. PERMANENT APPLICATION OF SECTION 245(i).**

3 Section 245(i) (8 U.S.C. 1255(i)) is amended—

4 (1) by inserting “and” at the end of paragraph

5 (1)(A);

6 (2) by amending paragraph (1)(B) to read as

7 follows:

8 “(B) who is the beneficiary (including a

9 spouse or child of the principal alien) of—

10 “(i) a petition for classification under

11 section 204; or

12 “(ii) an application for a labor certifi-

13 cation under section 212(a)(5)(A);”;

14 (3) by striking paragraph (1)(C); and

15 (4) by striking “Attorney General” each place

16 such term appears and inserting “Secretary of

17 Homeland Security”.

18 **SEC. 502. DISCRETIONARY WAIVER OF INADMISSIBILITY**

19 **BASED ON UNLAWFUL PRESENCE, FAILURE**

20 **TO ATTEND REMOVAL PROCEEDINGS, AND**

21 **MISREPRESENTATIONS.**

22 (a) IN GENERAL.—Section 212(i) (8 U.S.C. 1182(i))

23 is amended to read as follows:

24 “(i) The Secretary of Homeland Security may waive

25 the application of subparagraph (A)(i) or (B), or clause

1 (i) or (ii) of subparagraph (C), of subsection (a)(6) in the
 2 case of an immigrant who is the parent, spouse, child, son,
 3 or daughter of a United States citizen or of an alien law-
 4 fully admitted to the United States for permanent resi-
 5 dence, if it is established to the satisfaction of the Sec-
 6 retary that the refusal of admission to the United States
 7 of such immigrant would result in hardship to the immi-
 8 grant or to such citizen or lawful permanent resident par-
 9 ent, spouse, child, son, or daughter.”.

10 (b) CONFORMING AMENDMENTS.—Section 212(a)(6)
 11 (8 U.S.C. 1182(a)(6)) is amended—

12 (1) in subparagraph (A), by adding at the end
 13 the following:

14 “(iii) WAIVER AUTHORIZED.—For a
 15 provision authorizing the waiver of clause
 16 (i), see subsection (i).”;

17 (2) in subparagraph (B)—

18 (A) by inserting “(i)” after the subpara-
 19 graph heading; and

20 (B) by adding at the end the following:

21 “(ii) WAIVER AUTHORIZED.—For a
 22 provision authorizing the waiver of clause
 23 (i), see subsection (i).”;

24 (3) in subparagraph (C)(iii), by inserting “or
 25 (ii)” after “(i)”.

1 **SEC. 503. WAIVER OF INADMISSIBILITY FOR MINOR CRIMI-**
2 **NAL OFFENSES.**

3 Section 212(h) (8 U.S.C. 1182(h)) is amended—

4 (1) in the matter preceding paragraph (1), by
5 striking “offense of simple possession of 30 grams or
6 less of marijuana” and inserting “controlled sub-
7 stance offense for which the alien was not incarcer-
8 ated for a period exceeding 1 year”; and

9 (2) by striking the final two sentences.

10 **SEC. 504. GENERAL WAIVER FOR ALIENS PREVIOUSLY RE-**
11 **MOVED AND FOR THE UNLAWFUL PRESENCE**
12 **BARS.**

13 (a) IN GENERAL.—Section 212(d) (8 U.S.C.
14 1182(d)) is amended by adding at the end the following:

15 “(14) The Secretary of Homeland Security may, in
16 the discretion of the Secretary, for humanitarian purposes,
17 to assure family unity, or when it is otherwise in the public
18 interest, waive the application of subparagraph (A) or
19 (B)(i) of subsection (a)(9).”.

20 (b) CONFORMING AMENDMENT.—Section
21 212(a)(9)(B) of such Act (8 U.S.C. 1182(a)(9)(B)) is
22 amended by striking clause (v).

23 **SEC. 505. WAIVER OF AGGRAVATED FELONY CON-**
24 **SEQUENCES.**

25 Section 101 (8 U.S.C. 1101) is amended by adding
26 at the end the following:

(a) NEW GENERAL WAIVER.—Section 212(d) (8 U.S.C. 1182(d)) is amended by adding at the end the following:

•HR 2092 IH

1 (b) WAIVER FOR ALIENS PREVIOUSLY REMOVED.—

2 (1) CERTAIN ALIENS PREVIOUSLY REMOVED.—

3 Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is
4 amended by adding at the end the following:

5 “(iv) WAIVER AUTHORIZED.—For
6 provision authorizing waiver of clause (i)
7 or (ii), see subsection (d)(13).”.

8 (2) ALIENS UNLAWFULLY PRESENT.—Section
9 212(a)(9)(B)(v) (8 U.S.C. 1182(A)(9)(B)(v)) is
10 amended to read as follows:

11 “(v) WAIVER AUTHORIZED.—For pro-
12 vision authorizing waiver of clause (i), see
13 subsection (d)(13).”.

14 **SEC. 507. RESTORATION OF SUSPENSION OF DEPORTA-**
15 **TION.**

16 (a) CANCELLATION OF REMOVAL.—Section
17 240A(a)(3) (8 U.S.C. 1229b(a)(3)) is amended to read as
18 follows:

19 “(3) has not been convicted of an aggravated
20 felony for which the sentence imposed is five years
21 or more.”.

22 (b) REPEAL OF RULE FOR TERMINATION OF CON-
23 TINUOUS PERIOD.—

24 (1) Section 240A(d)(1) (8 U.S.C. 1229b(d)(1))
25 (8 U.S.C. 1229b(a)) is repealed.

1 (2) Section 240A(d) (8 U.S.C. 1229b) is
2 amended—

3 (A) by redesignating paragraphs (2) and
4 (3) as paragraphs (1) and (2), respectively; and

5 (B) by inserting before the period at the
6 end of paragraph (1) (as redesignated) the fol-
7 lowing: “, unless the alien’s departure from the
8 United States was due to a temporary trip
9 abroad required by emergency or extenuating
10 circumstances outside the control of the alien”.

11 (c) CANCELLATION OF REMOVAL AND ADJUSTMENT
12 FOR CERTAIN NONPERMANENT RESIDENTS.—Section
13 240A(b)(1) (8 U.S.C. 1229b(b)(1)) is amended to read as
14 follows:

15 “(1) IN GENERAL.—The Attorney General may
16 cancel removal in the case of an alien who is inad-
17 missible or deportable from the United States if the
18 alien—

19 “(A) has been physically present in the
20 United States for a continuous period of—

21 “(i) 7 years immediately preceding the
22 date of application in the case of an
23 alien—

1 “(I) who is deportable on any
2 ground other than a ground specified
3 in clause (ii)(I); and

4 “(II) whose deportation would, in
5 the opinion of the Attorney General,
6 result in extreme hardship to the alien
7 or the alien’s spouse, child, parent,
8 son, or daughter, who is a citizen of
9 the United States or an alien lawfully
10 admitted for permanent residence; or

11 “(ii) 10 years immediately preceding
12 the date of application in the case of an
13 alien—

14 “(I) who is deportable for convic-
15 tion of an offense under section
16 212(a)(2), 237(a)(2), or 237(a)(3);
17 and

18 “(II) whose deportation would, in
19 the opinion of the Attorney General,
20 result in exceptional and extremely
21 unusual hardship to the alien or the
22 alien’s spouse, parent, child, son, or
23 daughter, who is a citizen of the
24 United States or an alien lawfully ad-
25 mitted for permanent residence; and

1 “(B) has been a person of good moral
2 character during such period.”.

3 (d) ELIMINATION OF ANNUAL LIMITATION.—Section
4 240A (8 U.S.C. 1229b) is amended by striking subsection
5 (e).

6 **TITLE VI—REMOVAL GROUNDS** 7 **BASED ON CRIMINAL OFFENSES**

8 **SEC. 601. DEFINITION OF MORAL TURPITUDE.**

9 (a) EQUITABLE DEFINITION OF “MORAL TURPI-
10 TITUDE”.—

11 (1) CONVICTION OF CERTAIN CRIMES.—Section
12 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is
13 amended by striking “of, or who admits having com-
14 mitted, or who admits committing acts which con-
15 stitute the essential elements of—” and inserting
16 “of—”.

17 (2) EXCEPTION.—Section 212(a)(2)(A)(ii)(II)
18 (8 U.S.C. 1182(a)(2)(A)(ii)(II)) is amended—

19 (A) by striking “the maximum” and all
20 that follows through “such crime,”; and

21 (B) by striking “6 months” and inserting
22 “1 year”.

23 (b) EQUITABLE DEFINITION OF “CRIMES OF MORAL
24 TURPITUDE”.—Section 237(a)(2)(A)(i)(II) (8 U.S.C.
25 1227(a)(2)(A)(i)(II)) is amended to read as follows:

1 “(II) for which the alien has been
2 incarcerated for a period exceeding
3 one year,”.

4 **SEC. 602. “AGGRAVATED FELONY” DEFINITIONS.**

5 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.
6 1101(a)(43)) is amended by striking “The term ‘aggra-
7 vated felony’ means” and inserting “Aggravated felony
8 means a felony”.

9 (b) ILLICIT TRAFFICKING.—Section 101(a)(43)(B)
10 (8 U.S.C. 1101(a)(43)(B)) is amended by striking
11 “Code);” and inserting “Code), except it does not include
12 simple possession of a controlled substance;”.

13 (c) CRIMES OF VIOLENCE AND THEFT OFFENSES.—
14 Subparagraphs (F), (G), (R), and (S) of section
15 101(a)(43) (8 U.S.C. 1101(a)(43)(F), (G), (R), and (S))
16 are each amended by striking “imprisonment” and all that
17 follows through the semicolon and inserting “imprison-
18 ment of more than five years;”.

19 (d) CORRUPT ORGANIZATIONS AND GAMBLING OF-
20 FENSES.—Section 101(a)(43)(J) is amended by inserting
21 “more than five years” after the words “sentence of”.

22 (e) ALIEN SMUGGLING.—Section 101(a)(43)(N) (8
23 U.S.C. 101(a)(43)(N)) is amended—

24 (1) by inserting “committed for the purpose of
25 commercial advantage,” after “smuggling),”; and

1 (2) by adding at the end a semicolon.

2 (f) DISCRETIONARY WAIVER IN CASES OF OTHER
3 MINOR FELONIES.—Section 101 (8 U.S.C. 1101) is
4 amended by adding at the end the following:

5 “(i) For purposes of this Act, and notwithstanding
6 subsection (a)(43), the Attorney General may treat any
7 conviction that did not result in incarceration for more
8 than 1 year as if such conviction were not a conviction
9 for an aggravated felony.”.

10 **SEC. 603. DEFINITIONS OF “CONVICTION” AND “TERM OF**
11 **IMPRISONMENT”.**

12 Section 101(a)(48) (8 U.S.C. 1101(a)(48)) is amend-
13 ed—

14 (1) in subparagraph (A), by striking “court”
15 and all that follows through the period at the end
16 and inserting “court. An adjudication or judgment
17 of guilt that has been expunged, deferred, annulled,
18 invalidated, withheld, or vacated, an order of proba-
19 tion without entry of judgment, or any similar dis-
20 position shall not be considered a conviction for pur-
21 poses of this Act.”; and

22 (2) in subparagraph (B)—

23 (A) by inserting “only” after “deemed to
24 include”; and

1 (B) by striking “court of law” and all that
 2 follows through the period at the end and in-
 3 serting “court of law. Any such reference shall
 4 not be deemed to include any suspension of the
 5 imposition or execution of that imprisonment or
 6 sentence in whole or in part.”.

7 **SEC. 604. ELIMINATING RETROACTIVE CHANGES IN RE-**
 8 **MOVAL GROUNDS.**

9 (a) APPLICATION OF AGGRAVATED FELONY DEFINI-
 10 TION.—The last sentence of section 101(a)(43) (8 U.S.C.
 11 1101(a)(43)) is amended to read as follows: “The term
 12 shall not apply to any offense that was not covered by
 13 the term on the date on which the offense occurred.”.

14 (b) GROUNDS OF DEPORTABILITY.—Section 237 (8
 15 U.S.C. 1227) is amended by adding at the end the fol-
 16 lowing new subsection:

17 “(d) Notwithstanding any other provision of this sec-
 18 tion, an alien is not deportable by reason of committing
 19 any offense that was not a ground of deportability on the
 20 date the offense occurred.”.

21 (c) GROUNDS OF INADMISSIBILITY.—Section 212 (8
 22 U.S.C. 1182) is amended by adding at the end the fol-
 23 lowing new subsection:

24 “(p) Notwithstanding any other provision of this sec-
 25 tion, an alien is not inadmissible by reason of committing

1 any offense that was not a ground of inadmissibility on
2 the date the offense occurred.”.

3 **SEC. 605. ELIMINATING UNFAIR RETROACTIVE CHANGES IN**
4 **REMOVAL RULES FOR PERSONS PREVIOUSLY**
5 **REMOVED.**

6 (a) IN GENERAL.—The Attorney General shall estab-
7 lish a process by which an alien described in subsection
8 (b) may apply for reopening a proceeding so as to seek
9 relief from exclusion, deportation, or removal under sec-
10 tion 212(c) of the Immigration and Nationality Act, as
11 such section was in effect prior to the enactment of the
12 Antiterrorism and Effective Death Penalty Act of 1996,
13 or section 240A of the Immigration and Nationality Act,
14 as amended by this Act.

15 (b) ALIEN DESCRIBED.—An alien referred to in sub-
16 section (a) is an alien who received a final order of exclu-
17 sion, deportation, or removal, or a decision on a petition
18 for review or petition for habeas corpus, on or after Sep-
19 tember 30, 1996, and who was—

20 (1) excluded, deported, or removed from the
21 United States by reason of having committed a
22 criminal offense that was not a basis for removal,
23 exclusion, or deportation on the date on which the
24 offense was committed;

1 (2) excluded, deported, or removed from the
 2 United States by reason of having committed a
 3 criminal offense that is not a basis for removal, ex-
 4 clusion, or deportation on the date of enactment of
 5 this Act; or

6 (3) excluded, deported, or removed from the
 7 United States by reason of having committed a
 8 criminal offense prior to April 24, 1996, for which
 9 there was relief from exclusion, deportation, or re-
 10 moval available prior to such date.

11 (c) PAROLE.—The Attorney General may in her dis-
 12 cretion exercise the parole authority under section
 13 212(d)(5)(A) of the Immigration and Nationality Act (8
 14 U.S.C. 1182(d)(5)(A)) for the purpose of permitting
 15 aliens excluded, deported, or removed from the United
 16 States to participate in the process established under sub-
 17 section (a), if the alien establishes prima facie eligibility
 18 for the relief.

19 **TITLE VII—DIVERSITY VISAS**

20 **SEC. 701. INCREASE IN WORLDWIDE LEVEL OF DIVERSITY** 21 **IMMIGRANTS.**

22 Section 201(e) (8 U.S.C. 1151(e)) is amended by
 23 striking “55,000” and inserting “110,000”.

1 **SEC. 702. PERIOD DESIGNATED FOR APPLICATION.**

2 Section 203(e)(1) (8 U.S.C. 1153(e)(1)) is amend-
3 ed—

4 (1) by striking “Attorney General” each place
5 such term appears and and inserting “Secretary of
6 Homeland Security”; and

7 (2) by adding at the end the following: “The
8 Secretary shall provide for a filing system that will
9 permit unlimited filing throughout the entire period
10 designated for the filing of petitions. If an electronic
11 filing system is chosen, the Secretary shall ensure
12 that the computer equipment and software used to
13 accept the filed petitions will have the capacity to ac-
14 cept every application that is submitted during the
15 period designated for filing the petitions. In the
16 event that petitions submitted during the designated
17 period are rejected, the designated period will be ex-
18 tended for an additional 10-day period.”.

19 **TITLE VIII—HAITIAN PARITY**

20 **SEC. 801. ADJUSTMENT OF STATUS FOR HAITIANS.**

21 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
22 1255 et seq.), as amended by section 202, is further
23 amended by inserting after section 245C the following:

(b) CLERICAL AMENDMENT.—The table of contents as amended by section 202, is further amended by inserting after the item relating to section 245C the following:

•HR 2092 IH

6 Section 236 (8 U.S.C. 1226) is amended by adding
7 at the end the following:

17 SEC. 803. ELIMINATION OF MANDATORY DETENTION IN EX-
18 PEDITED REMOVAL PROCEEDINGS.

21 “(IV) DETENTION.—Aliens sub-
22 ject to the procedures under this
23 clause shall be detained in accordance
24 with section 236.”.

1 **SEC. 804. AMENDMENTS TO HAITIAN AND IMMIGRANT**
2 **FAIRNESS ACT OF 1998.**

3 (a) GROUND FOR INADMISSIBILITY FOR DOCUMENT
4 FRAUD DOES NOT APPLY.—The Haitian Refugee Immi-
5 gration Fairness Act of 1998 (8 U.S.C. 1255 note) is
6 amended in subsections (a)(1)(B) and (d)(1)(D) of section
7 902 by inserting “(6)(C)(i),” after “(6)(A),”.

8 (b) DETERMINATIONS WITH RESPECT TO CHIL-
9 DREN.—Section 902(d) of such Act is amended by adding
10 at the end the following:

11 “(3) DETERMINATIONS WITH RESPECT TO
12 CHILDREN.—

13 “(A) USE OF APPLICATION FILING
14 DATE.—Determinations made under this sub-
15 section as to whether an individual is a child of
16 a parent shall be made using the age and status
17 of the individual on the date of the enactment
18 of this section.

19 “(B) APPLICATION SUBMISSION BY PAR-
20 ENT.—Notwithstanding paragraph (1)(C), an
21 application under this subsection filed based on
22 status as a child may be filed for the benefit of
23 such child by a parent or guardian of the child,
24 if the child is physically present in the United
25 States on such filing date.”.

1 **SEC. 805. NEW APPLICATIONS AND MOTIONS TO REOPEN.**

2 (a) NEW APPLICATIONS.—Notwithstanding section
3 902(a)(1)(A) of the Haitian and Immigrant Fairness Act
4 of 1998, an alien who is eligible for adjustment of status
5 under such Act, as amended by section 804 of this Act,
6 may submit an application for adjustment of status under
7 such Act not later than the later of—

8 (1) 2 years after the date of the enactment of
9 this Act; and

10 (2) 1 year after the date on which final regula-
11 tions implementing section 804 are promulgated.

12 (b) MOTIONS TO REOPEN.—The Secretary of Home-
13 land Security shall establish procedures for the reopening
14 and reconsideration of applications for adjustment of sta-
15 tus under the Haitian Refugee Immigration Fairness Act
16 of 1998 that are affected by the amendments under sec-
17 tion 804 of this Act.

18 (c) RELATIONSHIP OF APPLICATION TO CERTAIN OR-
19 DERS.—Section 902(a)(3) of the Haitian and Immigrant
20 Fairness Act of 1998 shall apply to an alien present in
21 the United States who has been ordered excluded, de-
22 ported, removed, or ordered to depart voluntarily, and who
23 files an application under subsection (a), or a motion
24 under subsection (b), in the same manner as such section
25 902(a)(3) applied to aliens filing applications for adjust-
26 ment of status under such Act before April 1, 2000.

1 **SEC. 806. TEMPORARY PROTECTED STATUS FOR HAITIANS.**

2 It is the sense of the Congress that the Secretary of
 3 Homeland Security should be more liberal with respect to
 4 Haiti in deciding whether to designate that country for
 5 temporary protected status under section 244(b)(1)(A) of
 6 the Immigration and Nationality (8 U.S.C.
 7 1254(b)(1)(A)). It is the sense of the Congress that this
 8 decision has sometimes been made without due regard to
 9 the serious threat to personal safety that results from
 10 sending Haitians back to Haiti during a period of ongoing
 11 armed conflict in that country.

12 **TITLE IX—LIBERIAN REFUGEE**
 13 **RELIEF**

14 **SEC. 901. ADJUSTMENT OF STATUS OF CERTAIN LIBERIAN**
 15 **NATIONALS.**

16 (a) ADJUSTMENT OF STATUS.—

17 (1) IN GENERAL.—Notwithstanding section
 18 245(c) of the Immigration and Nationality Act, the
 19 status of any alien described in subsection (b) shall
 20 be adjusted by the Secretary of Homeland Security
 21 to that of an alien lawfully admitted for permanent
 22 residence, if the alien—

23 (A) applies for such adjustment before
 24 April 1, 2005; and

25 (B) is otherwise eligible to receive an im-
 26 migrant visa and is otherwise admissible to the

1 United States for permanent residence, except
2 in determining such admissibility the grounds
3 for inadmissibility specified in paragraphs (4),
4 (5), (6)(A), and (7)(A) of section 212(a) of the
5 Immigration and Nationality Act shall not
6 apply.

7 (2) RELATIONSHIP OF APPLICATION TO CER-
8 TAIN ORDERS.—An alien present in the United
9 States who has been ordered excluded, deported, re-
10 moved, or ordered to depart voluntarily from the
11 United States under any provision of the Immigra-
12 tion and Nationality Act may, notwithstanding such
13 order, apply for adjustment of status under para-
14 graph (1). Such an alien may not be required, as a
15 condition on submitting or granting such applica-
16 tion, to file a motion to reopen, reconsider, or vacate
17 such order. If the Secretary of Homeland Security
18 grants the application, the Secretary of Homeland
19 Security shall cancel the order. If the Secretary of
20 Homeland Security renders a final administrative
21 decision to deny the application, the order shall be
22 effective and enforceable to the same extent as if the
23 application had not been made.

1 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
2 TUS.—The benefits provided by subsection (a) shall apply
3 to any alien who—

4 (1) is a national of Liberia; and

5 (2)(A) who was granted temporary protected
6 status on or after March 27, 1991; or

7 (B) was eligible to apply for temporary pro-
8 tected status on or after March 27, 1991.

9 (c) STAY OF REMOVAL.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security shall provide by regulation for an alien sub-
12 ject to a final order of deportation or removal or ex-
13 clusion to seek a stay of such order based on the fil-
14 ing of an application under subsection (a).

15 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
16 standing any provision of the Immigration and Na-
17 tionality Act, the Secretary of Homeland Security
18 shall not order any alien to be removed from the
19 United States, if the alien is in exclusion, deporta-
20 tion, or removal proceedings under any provision of
21 such Act and raises as a defense to such an order
22 the eligibility of the alien to apply for adjustment of
23 status under subsection (a), except where the Sec-
24 retary of Homeland Security has rendered a final
25 administrative determination to deny the application.

1 (3) WORK AUTHORIZATION.—The Secretary of
2 Homeland Security may authorize an alien who has
3 applied for adjustment of status under subsection
4 (a) to engage in employment in the United States
5 during the pendency of such application and may
6 provide the alien with an “employment authorized”
7 endorsement or other appropriate document signi-
8 fying authorization of employment, except that if
9 such application is pending for a period exceeding
10 180 days, and has not been denied, the Secretary of
11 Homeland Security shall authorize such employment.

12 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
13 CHILDREN.—

14 (1) IN GENERAL.—Notwithstanding section
15 245(c) of the Immigration and Nationality Act, the
16 status of an alien shall be adjusted by the Secretary
17 of Homeland Security to that of an alien lawfully
18 admitted for permanent residence, if—

19 (A) the alien is a national of Liberia;

20 (B) the alien is the spouse, child, or un-
21 married son or daughter, of an alien whose sta-
22 tus is adjusted to that of an alien lawfully ad-
23 mitted for permanent residence under sub-
24 section (a), except that in the case of such an
25 unmarried son or daughter, the son or daughter

1 shall be required to establish that they have
2 been physically present in the United States for
3 at least 1 year and is physically present in the
4 United States on the date the application for
5 such adjustment is filed;

6 (C) the alien applies for such adjustment
7 and is physically present in the United States
8 on the date the application is filed; and

9 (D) the alien is otherwise eligible to receive
10 an immigration visa and is otherwise admissible
11 to the United States for permanent residence,
12 except in determining such admissibility the
13 grounds for exclusion specified in paragraphs
14 (4), (5), (6)(A), and (7)(A) of section 212(a) of
15 the Immigration and Nationality Act shall not
16 apply.

17 (2) PROOF OF CONTINUOUS PRESENCE.—For
18 purposes of establishing the period of continuous
19 physical presence referred to in paragraph (1)(B),
20 an alien shall not be considered to have failed to
21 maintain continuous physical presence by reason of
22 an absence, or absences, from the United States for
23 any periods in aggregate not exceeding 180 days.

24 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
25 The Secretary of Homeland Security shall provide to ap-

1 plicants for adjustment of status under subsection (a) the
2 same right to, and procedures for, administrative review
3 as are provided to—

4 (1) applicants for adjustment of status under
5 section 245 of the Immigration and Nationality Act;
6 or

7 (2) aliens subject to removal proceedings under
8 section 240 of such Act.

9 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-
10 mination by the Secretary of Homeland Security as to
11 whether the status of any alien should be adjusted under
12 this section is final and shall not be subject to review by
13 any court.

14 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
15 When an alien is granted the status of having been law-
16 fully admitted for permanent residence pursuant to this
17 section, the Secretary of State shall not be required to re-
18 duce the number of immigrant visas authorized to be
19 issued under any provision of the Immigration and Na-
20 tionality Act.

21 (h) APPLICATION OF IMMIGRATION AND NATION-
22 ALITY ACT PROVISIONS.—Except as otherwise specifically
23 provided in this section, the definitions contained in the
24 Immigration and Nationality Act shall apply in the admin-
25 istration of this section. Nothing contained in this section

1 shall be held to repeal, amend, alter, modify, effect, or re-
2 strict the powers, duties, functions, or authority of the
3 Secretary of Homeland Security in the administration and
4 enforcement of such Act or any other law relating to immi-
5 gration, nationality, or naturalization. The fact that an
6 alien may be eligible to be granted the status of having
7 been lawfully admitted for permanent residence under this
8 section shall not preclude the alien from seeking such sta-
9 tus under any other provision of law for which the alien
10 may be eligible.

11 **TITLE X—FAIRNESS IN ASYLUM**
12 **AND REFUGEE PROCEEDINGS**

13 **SEC. 1001. REFUGEE STATUS FOR UNMARRIED SONS AND**
14 **DAUGHTERS OF REFUGEES.**

15 Section 207(c)(2) (8 U.S.C. 1157(c)(2)) is amended
16 by adding at the end the following:

17 “(C) When warranted by unusual cir-
18 cumstances or to preserve family unity, the At-
19 torney General may, in the Attorney General’s
20 discretion, consider an unmarried son or daugh-
21 ter of a refugee to be a child of the refugee for
22 purposes of this paragraph.”.

1 **SEC. 1002. ASYLEE STATUS FOR UNMARRIED SONS AND**
 2 **DAUGHTERS OF ASYLEES.**

3 Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended
 4 by adding at the end the following:

5 “(C) When warranted by unusual cir-
 6 cumstances or to preserve family unity, the At-
 7 torney General may, in the Attorney General’s
 8 discretion, consider an unmarried son or daugh-
 9 ter of an alien who is granted asylum under
 10 this subsection to be a child of the alien for
 11 purposes of this paragraph.”.

12 **SEC. 1003. ELIMINATION OF ARBITRARY TIME LIMITS ON**
 13 **ASYLUM APPLICATIONS.**

14 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amend-
 15 ed—

16 (1) by striking subparagraph (B);

17 (2) in subparagraph (C), by striking “(D),” and
 18 inserting “(C),”;

19 (3) in subparagraph (D)—

20 (A) by striking “subparagraphs (B) and
 21 (C),” and inserting “subparagraph (B),”;

22 (B) by striking “either”; and

23 (C) by striking “asylum or extraordinary”
 24 and all that follows through the period at the
 25 end and inserting “asylum.”; and

1 (4) by redesignating subparagraphs (C) and
2 (D) as subparagraphs (B) and (C), respectively.

3 **SEC. 1004. GENDER-BASED PERSECUTION.**

4 (a) TREATMENT AS REFUGEE.—Section 101(a)(42)
5 (8 U.S.C. 1101(a)(42)) is amended by adding at the end
6 the following:

7 “(C) For purposes of determinations under
8 this Act, a person who establishes that he or
9 she suffered persecution in the past, or has a
10 well-founded fear of persecution, on account of
11 gender shall be considered to have suffered per-
12 secution, or to have a well-founded fear of per-
13 secution, on account of membership in a par-
14 ticular social group.”.

15 (b) RESTRICTION ON REMOVAL TO COUNTRY WHERE
16 ALIEN WOULD BE THREATENED.—Section 241(b)(3) of
17 such Act (8 U.S.C. 1231(b)(3)) is amended by adding at
18 the end the following:

19 “(C) GENDER-BASED PERSECUTION.—For
20 purposes of determinations under this para-
21 graph, an alien who establishes that the alien’s
22 life or freedom would be threatened in a coun-
23 try on account of gender shall be considered to
24 have established that the alien’s life or freedom

1 would be threatened in that country on account
 2 of membership in a particular social group.”.

3 **SEC. 1005. ELIMINATION OF ARBITRARY CAP ON PERSONS**
 4 **ELIGIBLE TO ADJUST STATUS FROM ASYLEES**
 5 **TO LEGAL PERMANENT RESIDENTS.**

6 Section 209(b) (8 U.S.C. 1159(b)) is amended by
 7 striking “Not more than 10,000 of the” and all that fol-
 8 lows through “to adjust” and inserting “Subject to a nu-
 9 merical limitation determined by the President before the
 10 beginning of each fiscal year, the Attorney General may
 11 adjust, in the Attorney General’s discretion and under
 12 such regulations as the Attorney General may prescribe,”.

13 **TITLE XI—TEMPORARY**
 14 **PROTECTED STATUS**

15 **SEC. 1101. ADJUSTMENT OF STATUS FOR CERTAIN RECIPI-**
 16 **ENTS OF TEMPORARY PROTECTED STATUS.**

17 (a) IN GENERAL.—Section 245 (8 U.S.C. 1255) is
 18 amended by adding at the end the following:

19 “(n)(1) If, in the opinion of the Secretary of the
 20 Homeland Security Department, a person granted tem-
 21 porary protected status under section 244—

22 “(A) has been physically present in the United
 23 States in that status for a continuous period of at
 24 least 5 years;

1 “(B) has at all times been a person of good
2 moral character;

3 “(C) has never been convicted of a criminal of-
4 fense in the United States;

5 “(D) in the case of an alien who is 18 years of
6 age or older, but who is not over the age of 65, has
7 successfully completed a course on reading, writing,
8 and speaking words in ordinary usage in the English
9 language, unless unable to do so on account of phys-
10 ical or developmental disability or mental impair-
11 ment;

12 “(E) in the case of an alien 18 years of age or
13 older, has accepted the values and cultural life of the
14 United States; and

15 “(F) in the case of an alien 18 years of age or
16 older, has performed at least 40 hours of community
17 service;

18 the Secretary may adjust the status of the alien to that
19 of an alien lawfully admitted for permanent residence.

20 “(2) An alien shall not be considered to have failed
21 to maintain a continuous presence in the United States
22 for purposes of subsection (a)(1) by virtue of brief, casual,
23 and innocent absences from the United States.

1 “(3)(A) The alien shall establish that the alien is ad-
 2 missible to the United States as immigrant, except as oth-
 3 erwise provided in paragraph (2).

4 “(B) The provisions of paragraphs (5), (6)(A),
 5 (6)(B), (6)(C), (6)(F), (6)(G), (7)(A), (9)(B), and
 6 (9)(C)(i)(I) of section 212(a) shall not apply in the deter-
 7 mination of an alien’s admissibility under this section.

8 “(4) When an alien is granted lawful permanent resi-
 9 dent status under this subsection, the number of immi-
 10 grant visas authorized to be issued under any provision
 11 of this Act shall not be reduced. The numerical limitations
 12 of sections 201 and 202 shall not apply to adjustment of
 13 status under this section.

14 “(5) The Secretary of Homeland Security may termi-
 15 nate removal proceedings without prejudice pending the
 16 outcome of an alien’s application for adjustment of status
 17 under this section on the basis of a prima facie showing
 18 of eligibility for relief under this section.”.

19 (b) LIMITATION ON CONSIDERATION IN THE SENATE
 20 OF LEGISLATION ADJUSTING STATUS.—Section 244 (8
 21 U.S.C. 1254a) is amended by striking subsection (h) and
 22 redesignating subsection (i) as subsection (h).

23 **SEC. 1102. FOREIGN STATE DESIGNATIONS.**

24 Section 244(b)(1)(C) (8 U.S.C. 1254a(b)(1)(C)) is
 25 amended to change the following phrase “the Attorney

1 General finds that there exist extraordinary and tem-
 2 porary conditions in the foreign state that prevent aliens
 3 who are nationals of the state from returning to the state
 4 in safety,” so that it reads as follows: “the Secretary of
 5 Homeland Security finds that extraordinary and tem-
 6 porary conditions in the foreign state make returning
 7 aliens to the state undesirable for humanitarian reasons,”.

8 **TITLE XII—MISCELLANEOUS** 9 **PROVISIONS**

10 **SEC. 1201. NATURALIZATION PROVISIONS.**

11 (a) PHYSICAL PRESENCE REQUIREMENT.—Section
 12 316(a) (8 U.S.C. 1427) is amended by adding at the end
 13 the following:

14 “(g) When warranted by extraordinary cir-
 15 cumstances, the Secretary of Homeland Security may re-
 16 duce, by not more than 90 days, the physical presence re-
 17 quirement described in the preceding sentence.”.

18 (b) ABSENCES FROM THE UNITED STATES.—Section
 19 316(b) (8 U.S.C. 1427(b)) is amended—

20 (1) in the first sentence, by striking “one year”
 21 and inserting “18 months”; and

22 (2) in the second sentence, by striking “contin-
 23 uous period of one year” and inserting “continuous
 24 period of 18 months”.

1 **SEC. 1202. PREVENTING INAPPROPRIATE STATE AND**
2 **LOCAL GOVERNMENT INVOLVEMENT IN THE**
3 **ENFORCEMENT OF CIVIL IMMIGRATION PRO-**
4 **VISIONS UNDER THE IMMIGRATION AND NA-**
5 **TIONALITY ACT.**

6 (a) ELIMINATION OF BAN ON STATE AND LOCAL
7 GOVERNMENTS FROM PREVENTING COMMUNICATIONS
8 WITH THE DEPARTMENT OF HOMELAND SECURITY.—

9 (1) IN GENERAL.—Section 642 of the Illegal
10 Immigration Reform and Immigrant Responsibility
11 Act of 1996 (8 U.S.C. 1373) is repealed.

12 (2) VERIFICATION OF ELIGIBILITY FOR FED-
13 ERAL PUBLIC BENEFITS.—Section 432 of the Per-
14 sonal Responsibility and Work Opportunity Rec-
15 onciliation Act of 1996 (8 U.S.C. 1642) is repealed.

16 (b) ELIMINATION OF AUTHORITY TO PERMIT STATE
17 PERSONNEL TO CARRY OUT IMMIGRATION OFFICER
18 FUNCTIONS.—Section 287(g) (8 U.S.C. 1357(g)) is re-
19 pealed.

1 **TITLE XIII—PROTECTION FOR**
 2 **IMMIGRANT VICTIMS OF VIO-**
 3 **LENCE**

4 **SEC. 1300. SHORT TITLE OF TITLE; TABLE OF CONTENTS OF**
 5 **TITLE; REFERENCES TO VAWA-2000; REGULA-**
 6 **TIONS.**

7 (a) SHORT TITLE.—This title may be cited as “Im-
 8 migrant Victims of Violence Protection Act of 2005”.

9 (b) REFERENCES TO VAWA-2000.—In this title, the
 10 term “VAWA-2000” means the Violence Against Women
 11 Act of 2000 (division B of Public Law 106–386).

12 (c) REGULATIONS.— Not later than 180 days after
 13 the date of the enactment of this Act, the Attorney Gen-
 14 eral, the Secretary of Homeland Security, and Secretary
 15 of State shall promulgate regulations to implement the
 16 provisions contained in the Battered Immigrant Women
 17 Protection Act of 2000 (title V of VAWA-2000) and the
 18 amendments made by (and the provisions of) this title.

19 **Subtitle A—Victims of Crime**

20 **SEC. 1301. CONDITIONS APPLICABLE TO U AND T VISAS.**

21 (a) TREATMENT OF U DERIVATIVES.—Clause (ii) of
 22 section 101(a)(15)(U)(ii) of the Immigration and Nation-
 23 ality Act (8 U.S.C. 1101(a)(15)(U)(ii)), as added by sec-
 24 tion 1513(b) of VAWA-2000, is amended to read as fol-
 25 lows:

“(ii) the spouse or child of an alien described in clause (i), or the parent of such an alien if the alien is a child, or the unmarried sibling of such a child if such sibling is under 18 years of age on the date on which such alien applied for status under such clause, if—

“(I) the Secretary of Homeland Security considers it necessary to avoid extreme hardship to such alien or such spouse, child, parent, or sibling; or

“(II) a government official described in clause (i)(III) certifies that an investigation or prosecution described in such clause would be harmed without the assistance of such spouse, child, parent, or sibling; and”.

(b) TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS OF TRAFFICKING.—Clause (ii) of section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended to read as follows:

“(ii) if accompanying, or following to join, the alien described in clause (i)—

“(I) in the case of an alien so described who is under 21 years of age, the spouse, children, unmarried siblings under

1 18 years of age on the date on which such
2 alien applied for status under such clause,
3 and parents of such alien; or

4 “(II) in the case of an alien described
5 in clause (i) who is 21 years of age or
6 older, the spouse and children of such
7 alien;”.

8 (c) DURATION OF U AND T VISAS.—

9 (1) U VISAS.—Section 214(p) of such Act (8
10 U.S.C. 1184(p)) is amended by adding at the end
11 the following new paragraph:

12 “(6) DURATION OF STATUS.—The authorized
13 period of status of an alien as a nonimmigrant
14 under section 101(a)(15)(U) shall be 4 years, but
15 shall be extended—

16 “(A) on a year-by-year basis upon certifi-
17 cation from a Federal, State or local law en-
18 forcement official, prosecutor, judge, or other
19 Federal, State or local authority investigating
20 or prosecuting criminal activity described in
21 section 101(a)(15)(U)(iii) that the alien’s con-
22 tinued presence in the United States is required
23 to assist in the investigation or prosecution of
24 such criminal activity; and

1 “(B) if the alien files an application for ad-
2 justment of status under section 245(m), until
3 final adjudication of such application.”.

4 (2) T VISAS.—Section 214(o) of such Act (8
5 U.S.C. 1184(o)), as redesignated by section 8(a)(3)
6 of the Trafficking Victims Protection Reauthoriza-
7 tion Act of 2003 (Public Law 108–193), is amended
8 by adding at the end the following:

9 “(7) The authorized period of status of an alien as
10 a nonimmigrant status under section 101(a)(15)(T) shall
11 be 4 years, but shall be extended—

12 “(A) on a year-by-year basis upon certification
13 from a Federal, State or local law enforcement offi-
14 cial, prosecutor, judge, or other Federal, State or
15 local authority investigating or prosecuting criminal
16 activity relating to human trafficking that the alien’s
17 continued presence in the United States is required
18 to assist in the investigation or prosecution of such
19 criminal activity; and

20 “(B) if the alien files an application for adjust-
21 ment of status under section 245(l), until final adju-
22 dication of such application.”.

23 (d) PERMITTING CHANGE OF NONIMMIGRANT STA-
24 TUS TO U AND T NONIMMIGRANT STATUS.—

1 (1) IN GENERAL.—Section 248 of such Act (8
2 U.S.C. 1258) is amended—

3 (A) by striking “The Attorney General”
4 and inserting “(a) The Secretary of Homeland
5 Security”;

6 (B) by inserting “(subject to subsection
7 (b))” after “except”; and

8 (C) by adding at the end the following new
9 subsection:

10 “(b) The limitation based on inadmissibility under
11 section 212(a)(9)(B) and the exceptions specified in num-
12 bered paragraphs of subsection (a) shall not apply to a
13 change of nonimmigrant classification to that of a non-
14 immigrant under subparagraph (T) or (U) of section
15 101(a)(15), other than from such classification under sub-
16 paragraph (C) or (D) of such section.”.

17 (2) CONFORMING AMENDMENT.—Section
18 214(l)(2)(A) of such Act (8 U.S.C. 1184(l)(2)(A)) is
19 amended by striking “248(2)” and inserting
20 “248(a)(2)”.

21 (e) U VISA CRIMES.—

22 (1) IN GENERAL.—Section 101(a)(15)(U) of
23 such Act (8 U.S.C. 1101(a)(15)(U)) is amended—

24 (A) in clause (i)(I)—

1 (i) by inserting “or injury” after
2 “physical or mental abuse”; and

3 (ii) by inserting “or witness” after
4 “victim”; and

5 (B) in clause (iii), by inserting “child
6 abuse; stalking (including physical or electronic
7 stalking);” after “unlawful criminal restraint;
8 false imprisonment;”.

9 (2) IMPLEMENTATION.—It is the intent of Con-
10 gress that certifications should be made under clause
11 (i)(III) of section 101(a)(15)(U) of the Immigration
12 and Nationality Act (8 U.S.C. 1101(a)(15)(U))
13 where an alien provides information to a law en-
14 forcement official on criminal activity described in
15 clause (iii) of such section and is willing to help in
16 the investigation of such activity, regardless of
17 whether a prosecution is made in such case or if
18 prosecution is made for criminal activity not de-
19 scribed in such clause.

20 (f) CERTIFICATION PROCESS FOR VICTIMS OF TRAF-
21 FICKING.—

22 (1) VICTIM ASSISTANCE IN INVESTIGATION OR
23 PROSECUTION.—Section 107(b)(1)(E) of the Traf-
24 ficking Victims Protection Act of 2000 (Division A

1 of Public Law 106–386; 22 U.S.C. 7105(b)(1)(E))
2 is amended——

3 (A) in clause (i)(I), by striking “investiga-
4 tion and prosecution” and inserting “investiga-
5 tion or prosecution, by the United States or a
6 State or local government”; and

7 (B) in clause (iii)—

8 (i) by striking “INVESTIGATION AND
9 PROSECUTION” and “investigation and
10 prosecution” and inserting “INVESTIGA-
11 TION OR PROSECUTION” and “investigation
12 or prosecution”, respectively;

13 (ii) in subclause (II), by striking
14 “and” at the end;

15 (iii) in subclause (III), by striking the
16 period and inserting “; or”; and

17 (iv) by adding at the end the following
18 new subclause:

19 “(IV) responding to and cooper-
20 ating with requests for evidence and
21 information.”.

22 (2) CLARIFYING ROLES OF ATTORNEY GENERAL
23 AND SECRETARY OF HOMELAND SECURITY.—

1 (A) Section 107 of the Trafficking Victims
2 Protection Act of 2000 (Division A of Public
3 Law 106–386; 22 U.S.C. 7105) is amended—

4 (i) in subsections (b)(1)(E)(i)(II)(bb),
5 (b)(1)(E)(ii), (e)(5), and (g), by striking
6 “Attorney General” and inserting “Sec-
7 retary of Homeland Security”; and

8 (ii) in subsection (c), by inserting “,
9 Secretary of Homeland Security,” after
10 “Attorney General”.

11 (B) Section 101(a)(15)(T) of the Immigra-
12 tion and Nationality Act (8 U.S.C.
13 1101(a)(15)(T)) is amended by striking “Attor-
14 ney General” and inserting “Secretary of
15 Homeland Security” each place it appears.

16 (C) Section 212(d)(13) of the Immigration
17 and Nationality Act (8 U.S.C. 1182(d)(13)) is
18 amended—

19 (i) in subparagraph (A), by striking
20 “Attorney General” and inserting “Sec-
21 retary of Homeland Security”;

22 (ii) in subparagraph (B), by striking
23 “Attorney General” the first place it ap-
24 pears and inserting “Secretary of Home-
25 land Security”; and

1 (iii) in subparagraph (B), by striking
2 “Attorney General, in the Attorney Gen-
3 eral’s discretion” and inserting “Secretary,
4 in the Secretary’s discretion”.

5 (D) Section 101(i) of the Immigration and
6 Nationality Act (8 U.S.C. 1101(i)) is amend-
7 ed—

8 (i) in paragraph (1), by striking “At-
9 torney General” and inserting “Secretary
10 of Homeland Security, the Attorney Gen-
11 eral,”; and

12 (ii) in paragraph (2), by striking “At-
13 torney General” and inserting “Secretary
14 of Homeland Security”.

15 (E) Section 245(l) of the Immigration and
16 Nationality Act (8 U.S.C. 1255(l)) is amend-
17 ed—

18 (i) by striking “Attorney General”
19 and inserting “Secretary of Homeland Se-
20 curity” the first place it appears in para-
21 graphs (1) and (2) and in paragraph (4);

22 (ii) by striking “Attorney General”
23 and inserting “Secretary ” the second
24 place it appears in paragraphs (1) and (2);
25 and

1 (iii) in paragraph (2), by striking “At-
 2 torney General’s” and inserting “Sec-
 3 retary’s”.

4 (3) PETITIONING BY STATE AND LOCAL LAW
 5 ENFORCEMENT OFFICIALS.—Section 107(c)(3) of
 6 the Trafficking Victims Protection Act of 2000 (Di-
 7 vision A of Public Law 106–386; 22 U.S.C.
 8 7105(c)(3)) is amended by adding at the end the fol-
 9 lowing: “State or local law enforcement officials may
 10 petition Federal law enforcement officials for the
 11 continued presence for trafficking victims. If such a
 12 petition contains a certification that a trafficking
 13 victim is a victim of a severe form of trafficking, the
 14 presence of the trafficking victim shall be permitted
 15 in accordance with this paragraph.”.

16 (g) EFFECTIVE DATES.—

17 (1) IN GENERAL.—The amendments made by
 18 subsections (a), (b), (c)(1), (d), and (e) shall take ef-
 19 fect on the date of the enactment of this Act.

20 (2) TRANSITION FOR DURATION OF T VISAS.—

21 In the case of an alien who is classified as a non-
 22 immigrant under section 101(a)(15)(T) of the Immi-
 23 gration and Nationality Act (8 U.S.C.
 24 1101(a)(15)(T)) before the the date of implementa-
 25 tion of the amendment made by subsection (c)(2)

1 and whose period of authorized stay was less than
 2 4 years, the authorized period of status of the alien
 3 as such a nonimmigrant shall be extended to be 4
 4 years and shall be further extended on a year-by-
 5 year basis as provided in section 214(o)(7) of such
 6 Act, as added by such amendment.

7 (3) CERTIFICATION PROCESS.—(A) The amend-
 8 ments made by subsection (f)(1) shall be effective as
 9 if included in the enactment of VAWA–2000.

10 (B) The amendments made by subsection (f)(2)
 11 shall be effective as of the applicable date of transfer
 12 of authority from the Attorney General to the Sec-
 13 retary of Homeland Security under the Homeland
 14 Security Act of 2002 (Public Law 107–296).

15 (C) The amendment made by subsection (f)(3)
 16 shall be effective as if included in the enactment of
 17 the Trafficking Victims Protection Reauthorization
 18 Act of 2003 (Public Law 108–193).

19 **SEC. 1302. CLARIFICATION OF BASIS FOR RELIEF UNDER**
 20 **HARDSHIP WAIVERS FOR CONDITIONAL PER-**
 21 **MANENT RESIDENCE.**

22 (a) IN GENERAL.—Section 216(c)(4) of the Immigra-
 23 tion and Nationality Act (8 U.S.C. 1186a(c)(4)) is amend-
 24 ed by adding at the end the following: “An application
 25 for relief under this paragraph may be based on one or

1 more grounds specified in subparagraphs (A) through (D)
 2 and may be amended at any time to change the ground
 3 or grounds for such relief without the application being
 4 resubmitted.”.

5 (b) CONFORMING AMENDMENT.—Section
 6 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii))
 7 is amended by inserting before the period at the end the
 8 following: “or qualifies for a waiver under section
 9 216(c)(4)”.

10 (c) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall apply to applications for relief pending
 12 or filed on or after April 10, 2003.

13 **SEC. 1303. ADJUSTMENT OF STATUS FOR VICTIMS OF TRAF-**
 14 **FICKING.**

15 Section 245(l)(1)(A) of the Immigration and Nation-
 16 ality Act (8 U.S.C. 1255(l)(1)(A)) is amended by striking
 17 “for a continuous period of at least 3 years”.

18 **Subtitle B—VAWA Petitioners**

19 **SEC. 1311. DEFINITION OF VAWA PETITIONER.**

20 (a) IN GENERAL.—Section 101(a) of the Immigra-
 21 tion and Nationality Act (8 U.S.C. 1101(a)) is amended
 22 by adding at the end the following new paragraph:

23 “(51) The term ‘VAWA petitioner’ means an alien
 24 whose application or petition for classification or relief
 25 under any of the following provisions (whether as a prin-

1 cipal or as a derivative) has been filed and has not been
 2 denied after exhaustion of administrative appeals:

3 “(A) Clause (iii), (iv), or (vii) of section
 4 204(a)(1)(A).

5 “(B) Clause (ii) or (iii) of section 204(a)(1)(B).

6 “(C) The first section of Public Law 89–732
 7 (commonly known as the Cuban Adjustment Act) as
 8 a child or spouse who has been battered or subjected
 9 to extreme cruelty.

10 “(D) Section 902(d)(1)(B) of the Haitian Ref-
 11 ugee Immigration Fairness Act of 1998 (division A
 12 of section 101(h) of Public Law 105–277).

13 “(E) Section 202(d)(1) of the Nicaraguan Ad-
 14 justment and Central American Relief Act (8 U.S.C.
 15 1255 note; Public Law 105–100).

16 “(F) Section 309(c)(5) of the Illegal Immigra-
 17 tion Reform and Immigrant Responsibility Act of
 18 1996 (division C of Public Law 104–208; 8 U.S.C.
 19 1101 note).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 212(a)(6)(A)(ii)(I) of such Act (8
 22 U.S.C. 1182(a)(6)(A)(ii)(I)) is amended by striking
 23 “qualifies for immigrant status under subparagraph
 24 (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section
 25 204(a)(1)” and inserting “is a VAWA petitioner”.

1 (2) Section 212(a)(9)(C)(ii) of such Act (8
2 U.S.C. 1182(a)(9)(C)(ii)) is amended by striking “to
3 whom the Attorney General has granted classifica-
4 tion under clause (iii), (iv), or (v) of section
5 204(a)(1)(A), or classification under clause (ii), (iii),
6 or (iv) of section 204(a)(1)(B)” and inserting “is a
7 VAWA petitioner”.

8 (3) Subsections (h)(1)(C) and (g)(1)(C) of sec-
9 tion 212 (8 U.S.C. 1182) is amended by striking
10 “qualifies for classification under clause (iii) or (iv)
11 of section 204(a)(1)(A) or classification under clause
12 (ii) or (iii) of section 204(a)(1)(B)” and inserting
13 “is a VAWA petitioner”.

14 (4) Section 212(i)(1) of such Act (8 U.S.C.
15 1182(i)(1)) is amended by striking “an alien granted
16 classification under clause (iii) or (iv) of section
17 201(a)(1)(A) or clause (ii) or (iii) of section
18 204(a)(1)(B)” and inserting “a VAWA petitioner”.

19 (5) Section 237(a)(1)(H)(ii) of such Act (8
20 U.S.C. 1227(a)(1)(H)(ii)) is amended by striking “is
21 an alien who qualifies for classification under clause
22 (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or
23 (iii) of section 204(a)(1)(B)” and inserting “is a
24 VAWA petitioner”.

1 (6) Section 240A(b)(4)(B) of such Act (8
2 U.S.C. 1229b(b)(4)(B)) is amended by striking
3 “they were applications filed under section 204(a)(1)
4 (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of such Act” and
5 inserting “the applicants were VAWA petitioners”.

6 (7) Section 245(a) of such Act (8 U.S.C.
7 1255(a)) is amended by striking “under subpara-
8 graph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section
9 204(a)(1) or” and inserting “as a VAWA peti-
10 tioner”.

11 (8) Section 245(c) of such Act (8 U.S.C.
12 1255(c)) is amended by striking “under subpara-
13 graph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii),
14 (B)(iii), or (B)(iv) of section 204(a)(1)” and insert-
15 ing “as a VAWA petitioner”.

16 (9) For additional conforming amendments to
17 sections 212(a)(4)(C)(i) and 240(c)(6)(C)(iv)(I) of
18 the Immigration and Nationality Act, see sections
19 832(c) and 817(a) of this Act.

20 **SEC. 1312. SELF-PETITIONING FOR CHILDREN.**

21 (a) SELF-PETITIONING BY CHILDREN OF PARENT-
22 ABUSERS UPON DEATH OR OTHER TERMINATION OF
23 PARENT-CHILD RELATIONSHIP.—

1 (1) CITIZEN PARENTS.—Section
2 204(a)(1)(A)(iv) of the Immigration and Nationality
3 Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended—

4 (A) by striking “or who” and inserting
5 “who”; and

6 (B) by inserting after “domestic violence,”
7 the following: “or who was a child of a United
8 States citizen parent who within the past 2
9 years (or, if later, two years after the date the
10 child attains 18 years of age) died or otherwise
11 terminated the parent-child relationship,”.

12 (2) LAWFUL PERMANENT RESIDENT PAR-
13 ENTS.—

14 (A) IN GENERAL.—Section
15 204(a)(1)(B)(iii) of such Act (8 U.S.C.
16 1154(a)(1)(B)(iii)) is amended—

17 (i) by striking “or who” and inserting
18 “who”; and

19 (ii) by inserting after “domestic vio-
20 lence,” the following: “or who was a child
21 of a lawful permanent resident resident
22 who within the past 2 years (or, if later,
23 two years after the date the child attains
24 18 years of age) died or otherwise termi-
25 nated the parent-child relationship,”.

1 (B) CONFORMING TREATMENT OF DE-
 2 CEASED SPOUSES.—Section
 3 204(a)(1)(B)(ii)(II)(aa)(CC) of such Act (8
 4 U.S.C. 1154(a)(1)(B)(ii)(II)(aa)(CC)) is
 5 amended—

6 (i) by redesignating subitems (aaa)
 7 and (bbb) as subitems (bbb) and (ccc), re-
 8 spectively; and

9 (ii) by inserting before subitem (bbb),
 10 as so redesignated, the following:

11 “(aaa) whose spouse died within the past
 12 2 years;”.

13 (3) EFFECTIVE DATES.—

14 (A) IN GENERAL.—Subject to subpara-
 15 graph (B), the amendment made by paragraphs
 16 (1) and (2) shall take effect on the date of the
 17 enactment of this Act.

18 (B) TRANSITION IN CASE OF CITIZEN PAR-
 19 ENTS WHO DIED BEFORE ENACTMENT.—In ap-
 20 plying the amendments made by paragraphs (1)
 21 and (2)(A) in the case of an alien whose citizen
 22 parent or lawful permanent resident parent died
 23 or whose parent-child relationship with such
 24 parent terminated during the period beginning
 25 on October 28, 1998, and ending on the date

1 of the enactment of this Act, the following rules
2 apply:

3 (i) The reference to “within the past
4 2 years” in section 204(a)(1)(A)(iv) or
5 204(a)(1)(B)(iii), respectively, of the Im-
6 migration and Nationality Act in the mat-
7 ter inserted by such paragraph is deemed
8 to be a reference to such period.

9 (ii) The petition must be filed under
10 such section within 2 years after the date
11 of the enactment of this Act (or, if later,
12 2 years after the alien’s 18th birthday).

13 (iii) The determination of eligibility
14 for benefits as a child under such section
15 (including under section 204(a)(1)(D) of
16 the Immigration and Nationality Act by
17 reason of a petition authorized under such
18 section) shall be determined as of the date
19 of the death of the citizen parent or lawful
20 permanent resident parent or the termi-
21 nation of the parent-child relationship.

22 (b) PROTECTING VICTIMS OF CHILD ABUSE FROM
23 AGING OUT.—

24 (1) CLARIFICATION REGARDING CONTINUATION
25 OF IMMEDIATE RELATIVE STATUS FOR CHILDREN OF

1 CITIZENS.—Section 204(a)(1)(D)(i)(I) of the Immi-
2 gration and Nationality Act (8 U.S.C.
3 1154(a)(1)(D)(i)(I)) is amended—

4 (A) by striking “clause (iv) of section
5 204(a)(1)(A)” and inserting “subparagraph
6 (A)(iv)”;

7 (B) by striking “a petitioner for preference
8 status under paragraph (1), (2), or (3) of sec-
9 tion 203(a), whichever paragraph is applicable”
10 and inserting “to continue to be treated as an
11 immediate relative under section
12 101(b)(2)(A)(i), or a petitioner for preference
13 status under section 203(a)(3) if subsequently
14 married,”.

15 (2) CLARIFICATION REGARDING APPLICATION
16 TO CHILDREN OF LAWFUL PERMANENT RESI-
17 DENTS.—Section 204(a)(1)(D) of such Act (8
18 U.S.C. 1154(a)(1)(D)) is amended—

19 (A) in clause (i)(I)—

20 (i) by inserting after the first sentence
21 the following new sentence: “Any child who
22 attains 21 years of age who has filed a pe-
23 tition under subparagraph (B)(iii) that was
24 filed or approved before the date on which
25 the child attained 21 year of age shall be

1 considered (if the child has not been ad-
 2 mitted or approved for lawful permanent
 3 residence by the date the child attained 21
 4 years of age) a petitioner for preference
 5 status under section 203(a)(2), with the
 6 same priority date assigned to the self-peti-
 7 tion filed under such subparagraph.”; and

8 (ii) in the last sentence, by inserting
 9 “in either such case” after “shall be re-
 10 quired to be filed”;

11 (B) in clause (i)(III), by striking “para-
 12 graph (1), (2), or (3) of section 203(a)” and in-
 13 serting “section 203(a)(2)”;

14 (C) in clause (ii), by striking “(A)(iii),
 15 (A)(iv),”.

16 (3) CLARIFICATION OF TREATMENT OF DERIVA-
 17 TIVE CHILDREN.—Section 204(a)(1)(D) of such Act
 18 is further amended by striking subclauses (III) and
 19 (IV) of clause (i) and by striking clause (ii) and in-
 20 serting the following:

21 “(ii) Subclauses (I) and (II) of clause (i) also shall
 22 apply to a derivative child under subparagraph (A)(ii) or
 23 (A)(iii), or under subparagraph (B)(ii) or (B)(iii), who at-
 24 tains 21 years of age in the same manner as such sub-

1 clauses apply to a principal petitioner under subparagraph
2 (A)(iv), or subparagraph (B)(iii), respectively.”.

3 (4) CLARIFICATION REGARDING APPLICATION
4 OF CSPA PROTECTIONS TO CHILDREN OF CITI-
5 ZENS.—Section 201(f) of such Act (8 U.S.C.
6 1151(f)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(4) APPLICATION TO CERTAIN VAWA PETI-
9 TIONERS.—Paragraphs (1) through (3) apply to a
10 petitioner described in clause (iii) or (iv) of section
11 204(a)(1)(A). ”.

12 (5) EFFECTIVE DATE.—The amendments made
13 by this subsection shall apply to applications filed
14 before, on, or after the date of the enactment of
15 VAWA–2000, except that the amendment made by
16 paragraph (4) shall apply as if included in the enact-
17 ment of the Child Status Protection Act (Public Law
18 107–208).

19 (c) CLARIFICATION OF NO SEPARATE ADJUSTMENT
20 APPLICATION FOR DERIVATIVE CHILDREN.—

21 (1) IN GENERAL.—Section 204(a)(1)(A) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1154(a)(1)(A)) is amended by adding at the end the
24 following new clause:

1 “(vii) In the case of a petition under clause (ii), (iii),
2 or (iv) that includes an individual as a derivative child of
3 a principal alien, no adjustment application other than the
4 adjustment application of the principal alien shall be re-
5 quired for adjustment of status of the individual under
6 subsection (a) or (c) of section 245.”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by paragraph (1) shall take effect on the date of the
9 enactment of this Act and shall apply to applications
10 filed before, on, or after such date.

11 (d) LATE PETITION PERMITTED FOR ADULTS
12 ABUSED AS CHILDREN.—

13 (1) IN GENERAL.—Section 204(a)(1)(D) of the
14 Immigration and Nationality Act (8 U.S.C.
15 1154(a)(1)(D)), as amended by subsection (b)(1), is
16 amended by adding at the end the following new
17 clause:

18 “(v) In the case of an alien who qualified to petition
19 under subparagraph (A)(iv) or (B)(iii) as of the date the
20 individual attained 21 years of age, the alien may file a
21 petition under such respective subparagraph notwith-
22 standing that the alien has attained such age or been mar-
23 ried so long as the petition is filed before the date the
24 individual attains 30 years of age. In the case of such a
25 petition, the alien shall remain eligible for adjustment of

1 status as a child notwithstanding that the alien has at-
 2 tained 21 years of age or has married, or both.”.

3 (2) EFFECTIVE DATE.—The amendment made
 4 by paragraph (1) shall take effect on the date of the
 5 enactment of this Act and shall apply to individuals
 6 who attain 21 years of age on or after the date of
 7 the enactment of VAWA–2000.

8 **SEC. 1313. SELF-PETITIONING PARENTS.**

9 (a) IN GENERAL.—Section 204(a)(1)(A) of the Im-
 10 migration and Nationality Act (8 U.S.C. 1154(a)(1)(A))
 11 is amended by adding at the end the following new clause:

12 “(vii) An alien who—

13 “(I) is the parent of a citizen of the United
 14 States or was a parent of a citizen of the United
 15 States who within the past 2 years lost or renounced
 16 citizenship status related to battering or extreme
 17 cruelty by the United States citizen son or daughter
 18 or who within the past two years died ;

19 “(II) is a person of good moral character;

20 “(III) is eligible to be classified as an imme-
 21 diate relative under section 201(b)(2)(A)(i); and

22 “(IV) resides, or has resided in the past, with
 23 the citizen daughter or son;

24 may file a petition with the Secretary of Homeland Secu-
 25 rity under this subparagraph for classification of the alien

1 under such section if the alien demonstrates that the alien
 2 has been battered by or has been the subject of extreme
 3 cruelty perpetrated by the alien’s citizen son or daugh-
 4 ter.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 subsection (a) shall take effect on the date of the enact-
 7 ment of this Act.

8 **SEC. 1314. PROMOTING CONSISTENCY IN VAWA ADJUDICA-**
 9 **TIONS.**

10 (a) IN GENERAL.—Section 204(a)(1) of the Immi-
 11 gration and Nationality Act (8 U.S.C. 1154(a)(1)) is
 12 amended—

13 (1) in subparagraph (A)(iii)(II)(aa)(CC)(bbb),
 14 by striking “an incident of domestic violence” and
 15 inserting “battering or extreme cruelty by the
 16 United States citizen spouse”;

17 (2) in subparagraph (A)(iv), by striking “an in-
 18 cident of domestic violence” and inserting “battering
 19 or extreme cruelty by such parent”;

20 (3) in subparagraph (B)(ii)(II)(aa)(CC)(aaa),
 21 by striking “due to an incident of domestic violence”
 22 and inserting “related to battering or extreme cru-
 23 elty by the lawful permanent resident spouse”; and

24 (4) in subparagraph (B)(iii), by striking “due
 25 to an incident of domestic violence” and inserting

1 “related to battering or extreme cruelty by such par-
2 ent”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall take effect as if included in the enact-
5 ment of VAWA–2000.

6 **SEC. 1315. RELIEF FOR PRIMA FACIE VICTIMS PENDING AC-**
7 **TIONS ON PETITIONS AND APPLICATIONS**
8 **FOR RELIEF.**

9 (a) VAWA PETITIONERS AND APPLICANTS FOR U
10 AND T NONIMMIGRANT CLASSIFICATION.—

11 (1) IN GENERAL.— Section 204(a)(1) of the
12 Immigration and Nationality Act (8 U.S.C.
13 1154(a)(1))is amended by adding at the end the fol-
14 lowing new subparagraph::

15 “(K) In the case of an alien in the United States for
16 whom a petition as a VAWA petitioner has been filed or
17 for whom an application for nonimmigrant status (wheth-
18 er as a principal or derivative child) under subparagraph
19 (T) or (U) of section 101(a)(15) has been filed—

20 “(i) if the petition or application is approved,
21 the alien shall not be removed, detained, or de-
22 ported;

23 “(ii) if the petition or application sets forth a
24 prima facie case for approval, such a petition or ap-
25 plication shall be processed without regard to wheth-

er a proceeding to remove or deport such alien is brought or pending; and

“(iii) if the petition or application is approved or sets forth a prima facie case for approval, pending approval of an application for adjustment of status, the alien is eligible for work authorization and shall be provided an ‘employment authorized’ endorsement or other appropriate work permit, except that the authorized period of work shall not exceed 180 days unless such petition or application has been approved.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to petitions and applications filed before, on, or after such date.

(b) APPLICANTS FOR CANCELLATION OF REMOVAL OR SUSPENSION OF DEPORTATION.—

(1) IN GENERAL.—Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended by adding at the end the following new subparagraph: :

“(E) RELIEF WHILE APPLICATION PENDING.—In the case of an alien who has applied for relief under this paragraph and whose application sets forth a prima facie case for such re-

1 lief or who has filed an application for relief
 2 under section 244(a)(3) (as in effect on March
 3 31, 1997) that sets forth a prima facie case for
 4 such relief—

5 “(i) the alien shall not be removed,
 6 detained, or deported unless the applica-
 7 tion is denied and all opportunities for ap-
 8 peal of the denial have been exhausted;
 9 and

10 “(ii) such an application shall be proc-
 11 essed without regard to whether a pro-
 12 ceeding to remove or deport such alien is
 13 brought or pending.”.

14 (2) EFFECTIVE DATE.—The amendment made
 15 by paragraph (1) shall take effect on the date of the
 16 enactment of this Act and shall apply to applications
 17 filed before, on, or after such date.

18 **SEC. 1316. ACCESS TO VAWA PROTECTION REGARDLESS OF**
 19 **MANNER OF ENTRY.**

20 (a) FIANCEES.—

21 (1) IN GENERAL.—Section 214(d) of the Immi-
 22 gration and Nationality Act (8 U.S.C. 1184(d)) is
 23 amended by inserting before the period at the end
 24 the following: “, unless the alien is not eligible under
 25 section 204(c) to have a petition approved and is eli-

gible for status as a VAWA petitioner, for status as a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15)(T), or for relief under section 240A(b)(2) or under section 244(a)(3) (as in effect on March 31, 1997)”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to aliens admitted before, on, or after such date.

(b) SPOUSES WHO ARE CONDITIONAL PERMANENT RESIDENTS.—

(1) IN GENERAL.—Section 245(d) of the Immigration and Nationality Act (8 U.S.C. 1255(d)) is amended—

(A) by inserting “(1)” after “(d)”; and

(B) by adding at the end the following new paragraph:

“(2) Paragraph (1) shall not apply to an alien who seeks adjustment of status on the basis of an approved petition for classification as a VAWA petitioner.”.

(2) CONFORMING CLARIFICATION IN CANCELLATION OF REMOVAL.—Section 240A(b)(2)(A) of such Act (8 U.S.C. 1229b(b)(2)(A)) is amended, in the matter before clause (i), by inserting “, regardless of whether the alien has been admitted for permanent

1 residence on a conditional basis under section 216,”
2 before “if the alien demonstrates”.

3 (3) SUSPENSION OF DEPORTATION.—An alien
4 may qualify for relief under section 244(a)(3) of the
5 Immigration and Nationality Act (as in effect on
6 March 31, 1997), regardless of whether the alien
7 has been admitted for permanent residence on a con-
8 ditional basis under section 216 of such Act.

9 (4) EFFECTIVE DATE.—The amendments made
10 by this subsection, and the provisions of paragraph
11 (3), shall take effect on the date of the enactment
12 of this Act and shall apply to applications for adjust-
13 ment of status, for cancellation of removal, or for
14 suspension of deportation filed before, on, or after
15 such date.

16 (c) SPOUSES AND CHILDREN OF ASYLUM APPLI-
17 CANTS UNDER ADJUSTMENT PROVISIONS.—

18 (1) IN GENERAL.—Section 209(b)(3) of the Im-
19 migration and Nationality Act (8 U.S.C. 1159(b)(3))
20 is amended—

21 (A) by inserting “(A)” after “(3)”; and

22 (B) by adding at the end the following:

23 “(B) was the spouse of a refugee within the
24 meaning of section 101(a)(42)(A) at the time the
25 asylum application was granted and who was bat-

1 tered or was the subject of extreme cruelty per-
 2 petrated by such refugee or whose child was battered
 3 or subjected to extreme cruelty by such refugee
 4 (without the active participation of such spouse in
 5 the battery or cruelty), or

6 “(C) was the child of a refugee within the
 7 meaning of section 101(a)(42)(A) at the time of the
 8 filing of the asylum application and who was bat-
 9 tered or was the subject of extreme cruelty per-
 10 petrated by such refugee,”.

11 (2) EFFECTIVE DATE.—The amendments made
 12 by paragraph (1) shall take effect on the date of the
 13 enactment of this Act and—

14 (A) section 209(b)(3)(B) of the Immigra-
 15 tion and Nationality Act, as added by para-
 16 graph (1)(B), shall apply to asylum applications
 17 granted before, on, or after such date; and

18 (B) section 209(b)(3)(C) of such Act, as so
 19 added, shall apply with respect to asylum appli-
 20 cations filed before, on, or after such date.

21 (d) VISA WAIVER ENTRANTS.—

22 (1) IN GENERAL.—Section 217(b)(2) of such
 23 Act (8 U.S.C. 1187(b)(2)) is amended by inserting
 24 after “asylum,” the following: “as a VAWA peti-
 25 tioner, or for relief under subparagraph (T) or (U)

1 of section 101(a)(15), under section 240A(b)(2), or
 2 under section 244(a)(3) (as in effect on March 31,
 3 1997),”.

4 (2) EFFECTIVE DATE.—The amendment made
 5 by paragraph (1) shall take effect on the date of the
 6 enactment of this Act and shall apply to waivers
 7 provided under section 217(b)(2) of the Immigration
 8 and Nationality Act before, on, or after such date as
 9 if it had been included in such waivers.

10 (e) EXCEPTION FROM FOREIGN RESIDENCE RE-
 11 QUIREMENT FOR EDUCATIONAL VISITORS.—

12 (1) IN GENERAL.—Section 212(e) of such Act
 13 (8 U.S.C. 1182(e)) is amended, in the matter before
 14 the first proviso, by inserting “unless the alien is a
 15 VAWA petitioner or a nonimmigrant under subpara-
 16 graph (T) or (U) of section 101(a)(15)” after “fol-
 17 lowing departure from the United States”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by paragraph (1) shall take effect on the date of the
 20 enactment of this Act and shall apply to .

21 **SEC. 1317. ELIMINATING ABUSERS’ CONTROL OVER APPLI-**
 22 **CATIONS FOR ADJUSTMENTS OF STATUS.**

23 (a) APPLICATION OF MOTIONS TO REOPEN FOR ALL
 24 VAWA PETITIONERS.—Section 240(c)(6)(C)(iv) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1230(c)(6)(C)(iv)) is amended —

3 (1) in subclause (I), by striking “under clause
4 (iii) or (iv) of section 204(a)(1)(A), clause (ii) or
5 (iii) of section 204(a)(1)(B)” and inserting “as a
6 VAWA petitioner”; and

7 (2) in subclause (II), by inserting “or adjust-
8 ment of status” after “cancellation of removal”.

9 (b) APPLICATION OF VAWA DEPORTATION PROTEC-
10 TIONS FOR TRANSITIONAL RELIEF TO ALL VAWA PETI-
11 TIONERS.—Section 1506(c)(2) of the Violence Against
12 Women Act of 2000 (8 U.S.C. 1229a note) is amended—

13 (1) in subparagraph (A)—

14 (A) by amending clause (i) to read as fol-
15 lows:

16 “(i) if the basis of the motion is to
17 apply for relief as a VAWA petitioner (as
18 defined in section 101(a)(51) of the Immi-
19 gration and Nationality Act (8 U.S.C.
20 1101(a)(51)) or under section 244(a)(3) of
21 such Act (8 U.S.C. 1254(a)(3)); and”; and

22 (B) in clause (ii), by inserting “or adjust-
23 ment of status” after “suspension of deporta-
24 tion”; and

1 (2) in subparagraph (B)(ii), by striking “for re-
2 lief” and all that follows through “1101 note))” and
3 inserting “for relief described in subparagraph
4 (A)(i)”.

5 (c) APPLICATION OF VAWA-RELATED RELIEF
6 UNDER SECTION 202 OF NACARA.—

7 (1) IN GENERAL.—Section 202(d)(1) of the
8 Nicaraguan Adjustment and Central American Re-
9 lief Act (8 U.S.C. 1255 note; Public Law 105–100)
10 is amended—

11 (A) in subparagraph (B)(ii), by inserting
12 “, or was eligible for adjustment,” after “whose
13 status is adjusted”; and

14 (B) in subparagraph (E), by inserting
15 after “April 1, 2000” the following: “, or, in
16 the case of an alien who qualifies under sub-
17 paragraph (B)(ii), applies for such adjustment
18 during the 18-month period beginning on the
19 date of enactment of the Violence Against
20 Women Act of 2005” .

21 (2) TECHNICAL AMENDMENT.—Section
22 202(d)(3) of such Act (8 U.S.C. 1255 note; Public
23 Law 105–100) is amended by striking
24 “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

1 (3) EFFECTIVE DATE.—The amendment made
2 by paragraph (2) shall take effect as if included in
3 the enactment of VAWA–2000.

4 (d) PETITIONING RIGHTS OF CERTAIN FORMER
5 SPOUSES UNDER CUBAN ADJUSTMENT.—

6 (1) IN GENERAL.—The first section of Public
7 Law 89–732 (8 U.S.C. 1255 note) is amended—

8 (A) in the last sentence, by striking
9 “204(a)(1)(H)” and inserting “204(a)(1)(J)”;
10 and

11 (B) by adding at the end the following:
12 “An alien who was the spouse of any Cuban
13 alien described in this section and has resided
14 with such spouse shall continue to be treated as
15 such a spouse for 2 years after the date on
16 which the Cuban alien dies (or, if later, 2 years
17 after the date of enactment of Violence Against
18 Women Act of 2005), or for 2 years after the
19 date of termination of the marriage (or, if later,
20 2 years after the date of enactment of Violence
21 Against Women Act of 2005) if the alien dem-
22 onstrates a connection between the termination
23 of the marriage and the battering or extreme
24 cruelty by the Cuban alien.”.

1 (2) EFFECTIVE DATE.—The amendment made
 2 by paragraph (1)(A) shall take effect as if included
 3 in the enactment of VAWA–2000.

4 (e) SELF-PETITIONING RIGHTS OF HRIFA APPLI-
 5 CANTS.—

6 (1) IN GENERAL.—Section 902(d)(1)(B) of the
 7 Haitian Refugee Immigration Fairness Act of 1998
 8 (division A of section 101(h) of Public Law 105–
 9 277; 112 Stat. 2681–538; 8 U.S.C. 1255 note), as
 10 amended by section 1511(a) of VAWA–2000, is
 11 amended—

12 (A) in clause (i), by striking “whose status
 13 is adjusted to that of an alien lawfully admitted
 14 for permanent residence” and inserting “who is
 15 or was eligible for classification”;

16 (B) in clause (ii), by striking “whose sta-
 17 tus is adjusted to that of an alien lawfully ad-
 18 mitted for permanent residence” and inserting
 19 “who is or was eligible for classification”; and

20 (C) in clause (iii), by striking
 21 “204(a)(1)(H)” and inserting “204(a)(1)(J)” .

22 (2) EFFECTIVE DATE.—The amendments made
 23 by paragraph (1)(C) shall take effect as if included
 24 in the enactment of VAWA–2000.

1 (f) SELF-PETITIONING RIGHTS UNDER SECTION 203
 2 OF NACARA.—Section 309 of the Illegal Immigration
 3 and Reform and Immigrant Responsibility Act of 1996
 4 (division C of Public Law 104–208; 8 U.S.C. 1101 note),
 5 as amended by section 203(a) of the Nicaraguan Adjust-
 6 ment and Central American Relief Act (8 U.S.C. 1255
 7 note; Public Law 105–100), is amended—

8 (1) in subsection (c)(5)(C)(i)(VII)(aa), as
 9 amended by section 1510(b) of VAWA–2000—

10 (A) by striking “or” at the end of subitem
 11 (BB);

12 (B) by striking “and” at the end of
 13 subitem (CC) and inserting “or”; and

14 (C) by adding at the end the following new
 15 subitem:

16 “(DD) at the time at which
 17 the spouse or child files an appli-
 18 cation for suspension of deporta-
 19 tion or cancellation of removal;
 20 and”; and

21 (2) in subsection (g)—

22 (A) by inserting “(1)” before “Notwith-
 23 standing”;

1 (B) by inserting “subject to paragraph
 2 (2),” after “section 101(a) of the Immigration
 3 and Nationality Act)),”; and

4 (C) by adding at the end the following new
 5 paragraph:

6 “(2) There shall be no limitation on a motion to re-
 7 open removal or deportation proceedings in the case of an
 8 alien who is described in subclause (VI) or (VII) of sub-
 9 section (c)(5)(C)(i). Motions to reopen removal or deporta-
 10 tion proceedings in the case of such an alien shall be han-
 11 dled under the procedures that apply to aliens seeking re-
 12 lief under section 204(a)(1)(A)(iii) of the Immigration and
 13 Nationality Act.”.

14 (g) EFFECTIVE DATE.—Except as otherwise provided
 15 in this section, the amendments made by this section shall
 16 take effect on the date of the enactment of this Act.

17 **SEC. 1318. PAROLE FOR FAMILY MEMBERS OF VICTIMS OF**
 18 **VAWA PETITIONERS.**

19 (a) IN GENERAL.—Section 240A(b)(4) of the Immi-
 20 gration and Nationality Act (8 U.S.C. 1229b(b)(4)) is
 21 amended—

22 (1) in the heading, by inserting “BATTERED
 23 ALIENS AND” before “CHILDREN OF BATTERED
 24 ALIENS”;

25 (2) in subparagraph (A)—

1 (A) by striking “or” at the end of clause
2 (i);

3 (B) by striking the period at the end of
4 clause (ii) and inserting “; or”; and

5 (C) by adding at the end the following new
6 clause:

7 “(iii) a VAWA petitioner.”; and
8 (3) in subparagraph (B)—

9 (A) in the first sentence, by inserting “on
10 a year-by-year basis” after “shall extend”; and

11 (B) in the first sentence, by inserting “or,
12 in the case of subparagraph (A)(iii), from the
13 date of approval of the applicable petition”
14 after “1996”).

15 (b) CONFORMING AMENDMENT.—Section 212(d)(5)
16 of such Act (8 U.S.C. 1182(d)(5)) is amended by adding
17 at the end the following new subparagraph:

18 “(C) For provision providing for parole for certain
19 battered aliens, children or battered aliens, and parents
20 of battered alien children, see section 240A(b)(4).”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **SEC. 1319. EXEMPTION OF VICTIMS OF DOMESTIC VIO-**
2 **LENCE, SEXUAL ASSAULT AND TRAFFICKING**
3 **FROM SANCTIONS FOR FAILURE TO DEPART**
4 **VOLUNTARILY.**

5 (a) IN GENERAL.—Section 240B(d) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1229c(d)) is amend-
7 ed—

8 (1) by striking “If” and inserting “(1) Subject
9 to paragraph (2), if”; and

10 (2) by adding at the end the following new
11 paragraph::

12 “(2) The ineligibility for relief under paragraph (1)
13 shall not apply to an alien who is a VAWA petitioner, who
14 is seeking status as a nonimmigrant under subparagraph
15 (T) or (U) of section 101(a)(15), or who is an applicant
16 for relief under section 240A(b)(2) or under section
17 244(a)(3) (as in effect on March 31, 1997).”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall apply as if included in the enactment
20 of the Immigration Reform and Immigrant Responsibility
21 Act of 1996 (division C of Public Law 104–208) and shall
22 apply to failures to depart voluntarily occurring before, on,
23 or after the date of the enactment of this Act.

1 **SEC. 1320. CLARIFICATION OF ACCESS TO NATURALIZA-**
2 **TION FOR VICTIMS OF DOMESTIC VIOLENCE.**

3 (a) IN GENERAL.—Section 319(a) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1430(a)) is amended
5 by inserting after “extreme cruelty by a United States cit-
6 izen spouse or parent” the following: “, regardless of
7 whether the lawful permanent resident status was ob-
8 tained on the basis of such battery or cruelty”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the date of the enact-
11 ment of this Act and shall apply to applications for natu-
12 ralization filed before, on, or after the date of the enact-
13 ment of this Act.

14 **SEC. 1321. CONSOLIDATING ADJUDICATION OF VAWA**
15 **CASES IN VAWA UNIT.**

16 (a) IN GENERAL.—Subtitle F of title IV of the
17 Homeland Security Act of 2002 (Public Law 107–296)
18 is amended by adding at the end the following new section:

19 **“SEC. 479. CONSOLIDATED ADJUDICATION OF VAWA CASES**
20 **IN VAWA UNIT.**

21 “(a) SOLE JURISDICTION.—The Secretary of Home-
22 land Security shall designate the VAWA unit as the ad-
23 ministrative unit within the Department of Homeland Se-
24 curity with sole jurisdiction over the adjudication of the
25 following:

1 “(1) Applications and petitions of VAWA peti-
2 tioners described in section 101(a)(51) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1101(a)(51)).

4 “(2) Applications for nonimmigrant status
5 under subparagraph (T) or (U) of section
6 101(a)(15) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(15)).

8 “(3) Applications seeking relief under para-
9 graph (2) or (4) of section 240A(b) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 122b(b)).

11 “(4) Applications for adjustment of status by
12 VAWA petitioners who are described in subpara-
13 graph (A) or (B) of section 101(a)(51) of such Act.

14 “(5) Applications for employment authorization
15 under section 214(c)(11).

16 “(b) ADDITIONAL JURISDICTION.—The VAWA unit
17 may have jurisdiction over such other matters as the Sec-
18 retary may specify.

19 “(c) VAWA UNIT DEFINED.—For purposes of this
20 section, the term ‘VAWA unit’ means the administrative
21 unit within the Department of Homeland Security that
22 has responsibility as of May 1, 2005, for petitions under
23 subparagraphs (A)(iii), (A)(iv), (B)(ii), and (B)(iii) of sec-
24 tion 204(a)(1) of the Immigration and Nationality Act
25 and for applications for nonimmigrant status under sub-

1 paragraphs (T) and (U) of section 101(a)(15) of such
2 Act.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of such Act is amended by inserting after
5 the item relating to section 478 the following new item:

“Sec. 479. Consolidated adjudication of VAWA cases in VAWA unit.”.

6 (c) EFFECTIVE DATE.—The amendment made by
7 paragraph (1) shall apply to applications and petitions
8 filed on or after the date that is 180 days after the date
9 of the enactment of this Act and, to the extent feasible,
10 to applications and petitions filed before such date.

11 **SEC. 1322. PROHIBITION OF ADVERSE DETERMINATIONS**
12 **OF ADMISSIBILITY OR DEPORTABILITY**
13 **BASED ON PROTECTED INFORMATION.**

14 (a) APPLICATION TO ADDITIONAL DEPARTMENTS
15 AND OTHER BATTERED ALIENS.—Section 384 of the Ille-
16 gal Immigration Reform and Immigrant Responsibility
17 Act of 1996 (division C of Public Law 104–208; 8 U.S.C.
18 1367) is amended—

19 (1) in subsection (a), as amended by section
20 1513(d) of VAWA–2000—

21 (A) in the matter before paragraph (1), by
22 striking “(including any bureau or agency of
23 such Department)” and inserting “, or the Sec-
24 retary of Homeland Security, the Secretary of
25 State, the Secretary of Health and Human

1 Services, or the Secretary of Labor or any other
2 official or employee of the Department of
3 Homeland Security, the Department of State,
4 the Department of Health and Human Services,
5 or the Department of Labor (including any bu-
6 reau or agency of any such Department)”;

7 (B) in paragraph (1)—

8 (i) in the matter before subparagraph
9 (A), by striking “furnished solely by” and
10 inserting “furnished by or derived from in-
11 formation provided solely by”;

12 (ii) by striking “or” at the end of sub-
13 paragraph (D);

14 (iii) by adding “or” at the end of sub-
15 paragraph (E); and

16 (iv) by inserting after subparagraph
17 (E) the following new subparagraph:

18 “(F) in the case of an alien applying for
19 continued presence as a victim of trafficking
20 under section 107(b)(1)(E)(i)(II)(bb) of the
21 Trafficking Protection Act of 2000 or status
22 under section 101(a)(15)(T) of the Immigration
23 and Nationality Act, the trafficker or perpe-
24 trator,”; and

25 (C) in paragraph (2)—

1 (i) by striking “of the Department,”
2 and inserting “of any such Department,”;

3 (ii) by striking “under clause (iii) or
4 (iv) of section 204(a)(1)(A), clause (ii) or
5 (iii) of section 204(a)(1)(B)” and inserting
6 “as a VAWA petitioner (as defined in sec-
7 tion 101(a)(51) of the Immigration and
8 Nationality Act), or under”; and

9 (iii) by striking “or section
10 240A(a)(3) of such Act as an alien (or the
11 part of a child) who has been battered or
12 subjected to extreme cruelty.” and insert-
13 ing the following: “, section 101(a)(15)(T),
14 or section 240A(b)(2) of such Act, or sec-
15 tion 244(a)(3) of such Act (as in effect on
16 March 31, 1997), or for continued pres-
17 ence as a victim of trafficking under sec-
18 tion 107(b)(1)(E)(i)(II)(bb) of the Traf-
19 ficking Protection Act of 2000, or any de-
20 rivative of the alien;”; and

21 (D) by inserting after paragraph (2) the
22 following:

23 “(3) undertake any part of an enforcement ac-
24 tion—

1 “(A) at a domestic violence shelter, a vic-
2 tims services organization or program (as de-
3 scribed in section 2003(8) of the Omnibus
4 Crime Control and Safe Streets Act of 1968),
5 a rape crisis center, a family justice center, or
6 a supervised visitation center; or

7 “(B) against an alien at a courthouse (or
8 in connection with the appearance of the alien
9 at a courthouse) if the alien is appearing in
10 connection with a protection order case, child
11 custody case, or other civil or criminal case re-
12 lating to domestic violence, sexual assault, traf-
13 ficking, or stalking in which the alien has been
14 battered or subject to extreme cruelty or if the
15 alien is described in subparagraph (T) or (U) of
16 section 101(a)(15) of the Immigration and Na-
17 tionality Act; or

18 “(4) in the case of an alien described in section
19 101(a)(27)(J) of the Immigration and Nationality
20 Act who has been abused, neglected, or abandoned,
21 contact the alleged abuser (or family member of the
22 alleged abuser) at any stage of applying for special
23 immigrant juvenile status, including after a request
24 for the consent of the Secretary of Homeland Secu-
25 rity under clause (iii)(I) of such section.”; and

1 (2) in subsection (b)—

2 (A) in paragraphs (1), by striking “may
3 provide, in the Attorney General’s discretion”
4 and inserting “, Secretary of Homeland Secu-
5 rity, Secretary of State, Secretary of Health
6 and Human Services, and Secretary of Labor
7 may provide”;

8 (B) in paragraph (2), by striking “may
9 provide in the discretion of the Attorney Gen-
10 eral” and inserting “, Secretary of Homeland
11 Security, Secretary of State, Secretary of
12 Health and Human Services, and the Secretary
13 of Labor may provide”; and

14 (C) in paragraph (5), by striking “is au-
15 thorized to disclose” and inserting “, Secretary
16 of Homeland Security, Secretary of State, Sec-
17 retary of Health and Human Services, and Sec-
18 retary of Labor, or Attorney General may dis-
19 close”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall take effect on the date of the enact-
22 ment of this Act and shall apply to violations or disclo-
23 sures made on or after such date.

**Subtitle C—Miscellaneous
Provisions**

**SEC. 1331. REMOVING 2 YEAR CUSTODY AND RESIDENCY
REQUIREMENT FOR BATTERED ADOPTED
CHILDREN.**

(a) IN GENERAL.—Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(E)(i)) is amended by inserting after “at least two years” the following: “or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household”.

(b) CONFORMING NATURALIZATION AMENDMENT.—Section 320(a)(3) of such Act (8 U.S.C. 1431(a)(3)) is amended by inserting before the period at the end the following: “or the child is residing in the United States pursuant to a lawful admission for permanent residence and has been battered or subject to extreme cruelty by the citizen parent or by a family member of the citizen parent residing in the same household ”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications pending or filed on or after such date.

1 **SEC. 1332. GROUNDS OF INADMISSIBILITY; GOOD MORAL**
2 **CHARACTER; AND FOREIGN RESIDENCY RE-**
3 **QUIREMENTS.**

4 (a) WAIVER OF UNLAWFUL PRESENCE.—Paragraph
5 (9)(B)(iii)(IV) of section 212(a) of the Immigration and
6 Nationality Act (8 U.S.C. 1182(a)) is amended by striking
7 “who would be described in paragraph (6)(A)(ii)” and all
8 that follows and by inserting “who demonstrates that the
9 alien is described in subclauses (I) and (II) of paragraph
10 (6)(A)(ii).”.

11 (b) WAIVER OF FALSE CLAIM OF U.S. CITIZEN-
12 SHIP.—

13 (1) IN GENERAL.—Section 212(i)(1) of such
14 Act (8 U.S.C. 1182(i)(1)) is amended by inserting
15 “(and, in the case of a VAWA petitioner who dem-
16 onstrates a connection between the false claim of
17 United States citizenship and the petitioner being
18 subjected to extreme cruelty or physical or mental
19 abuse, clause (ii))” after “clause (i)”.

20 (2) CONFORMING REFERENCE.—Section
21 212(a)(6)(C)(iii) of such Act (8 U.S.C.
22 1182(a)(6)(C)(iii)) is amended by striking “clause
23 (i)” and inserting “clauses (i) and (ii)”.

24 (c) EXEMPTION FROM PUBLIC CHARGE GROUND.—

1 (1) IN GENERAL.—Section 212(a)(4) of such
2 Act (8 U.S.C. 1182(a)(4)) is amended by adding at
3 the end the following new subparagraph:

4 “(E) SPECIAL RULE FOR BATTERED
5 ALIENS.—Subparagraphs (A) through (C) shall
6 not apply to an alien who is a VAWA petitioner
7 or is a qualified alien described in section
8 431(c) of the Personal Responsibility and Work
9 Opportunity Reconciliation Act of 1996.”.

10 (2) CONFORMING AMENDMENT.—Section
11 212(a)(4)(C)(i) of such Act (8 U.S.C.
12 1182(a)(4)(C)(i)) is amended to read as follows:

13 “(i) the alien is described in subpara-
14 graph (E); or”.

15 (d) EFFECTIVE DATE.—Except as provided in this
16 section, the amendments made by this section shall take
17 effect on the date of the enactment of this Act and shall
18 apply regardless of whether the conviction was entered,
19 crime, or disqualifying event occurred before, on, or after
20 such date.

21 **SEC. 1333. TREATMENT OF GOOD MORAL CHARACTER.**

22 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1101(a)(43)) is
24 amended—

1 (1) in subparagraphs (F) and (G), by striking
2 “at least one year” and inserting “is more than one
3 year”;

4 (2) in subparagraph (J), by striking “one year
5 imprisonment or more” by inserting “imprisonment
6 of more than one year”;

7 (3) in subparagraph (P), by striking “at least
8 12 months” and inserting “more than one year”;
9 and

10 (4) in subparagraphs (R) and (S), by striking
11 “at least one year” and inserting “more than one
12 year”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 subsection (a) shall take effect on the date of the enact-
15 ment of this Act and shall apply to all convictions entered
16 (and criminal acts occurring) before, on, or after the date
17 of the enactment of this Act.

18 **SEC. 1334. EMPLOYMENT AUTHORIZATION FOR BATTERED**
19 **SPOUSES OF H-1B VISA HOLDERS.**

20 (a) IN GENERAL.—Section 214(c) of the Immigration
21 and Nationality Act (8 U.S.C. 1184(c)) is amended by
22 adding at the end the following new paragraph:

23 “(11) In the case of an alien spouse admitted under
24 section 101(a)(15)(H) who is accompanying or following
25 to join a principal alien admitted under section

1 101(a)(15)(H)(i)(B), the Secretary of Homeland Security
 2 shall authorize the alien spouse to engage in employment
 3 in the United States and provide the spouse with an ‘em-
 4 ployment authorized’ endorsement or other appropriate
 5 work permit if the alien spouse demonstrates that during
 6 the marriage the alien spouse or a child of the alien spouse
 7 has been battered or has been the subject to extreme cru-
 8 elty perpetrated by the spouse of the alien spouse.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) shall take effect on the date of the enact-
 11 ment of this Act and shall apply to aliens who obtained
 12 the status of an alien spouse admitted under section
 13 101(a)(15)(H) of the Immigration and Nationality Act be-
 14 fore, on, or after such date.

15 **SEC. 1335. GROUNDS FOR HARDSHIP WAIVER FOR CONDI-**
 16 **TIONAL PERMANENT RESIDENCE FOR IN-**
 17 **TENDED SPOUSES.**

18 (a) IN GENERAL.—Section 216(c)(4) of the Immigra-
 19 tion and Nationality Act (8 U.S.C. 1186a(c)(4)) is amend-
 20 ed—

- 21 (1) by striking “or” at the end of subparagraph
- 22 (B);
- 23 (2) by striking the period at the end of sub-
- 24 paragraph (C) and inserting “, or”; and

1 (3) by inserting after subparagraph (C) the fol-
2 lowing new subparagraph:

3 “(D) the alien meets the requirements
4 under section 204(a)(1)(A)(iii)(II)(aa)(BB) and
5 following the marriage ceremony has been bat-
6 tered by or was subject to extreme cruelty per-
7 petrated by his or her intended spouse and was
8 not at fault in failing to meet the requirements
9 of paragraph (1).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply as if included in the enactment
12 of VAWA–2000.

13 **SEC. 1336. CANCELLATION OF REMOVAL AND SUSPENSION**
14 **OF DEPORTATION.**

15 (a) CLARIFYING APPLICATION OF DOMESTIC VIO-
16 LENCE WAIVER AUTHORITY IN CANCELLATION OF RE-
17 MOVAL.—

18 (1) IN GENERAL.—Section 240A(b) of the Im-
19 migration and Nationality Act (8 U.S.C. 1229b(b))
20 is amended—

21 (A) in paragraph (1)(C), by striking “(ex-
22 cept in a case described in section 237(a)(7)
23 where the Attorney General exercises discretion
24 to grant a waiver)” and inserting “, subject to
25 paragraph (5)”;

1 (B) in paragraph (2)(A), by amending
 2 clause (iv) to read as follows:

3 “(iv) subject to paragraph (5), the
 4 alien is not inadmissible under section
 5 212(a)(2) or removable under section
 6 237(a)(2) or 237(a)(3); and ”; and

7 (C) by adding at the end the following new
 8 paragraph:

9 “(5) APPLICATION OF DOMESTIC VIOLENCE
 10 WAIVER AUTHORITY.—Paragraphs (1)(C) and
 11 (2)(A)(iv) shall not apply with respect to an offense
 12 described in clause (i) or (ii) of section 237(a)(2)(E)
 13 in the case described in section 237(a)(7)(A).”.

14 (2) EFFECTIVE DATE.—The amendments made
 15 by paragraph (1) shall apply as if included in the
 16 enactment of section 1504(a) of VAWA–2000.

17 (b) CLARIFYING NONAPPLICATION OF CANCELLA-
 18 TION CAP.—

19 (1) IN GENERAL.—Section 240A(e)(3) of the
 20 Immigration and Nationality Act (8 U.S.C.
 21 1229b(e)(3)) is amended by adding at the end the
 22 following new subparagraph:

23 “(C) Aliens with respect to their cancella-
 24 tion of removal under subsection (b)(2).”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to cancellations of re-
3 moval occurring on or after October 1, 2004.

4 **SEC. 1337. MOTIONS TO REOPEN.**

5 (a) REMOVAL PROCEEDINGS.—

6 (1) IN GENERAL.—Section 240(c)(6) of the Im-
7 migration and Nationality Act (8 U.S.C. 1230(c)(6))
8 is amended—

9 (A) in subparagraph (A), by inserting “,
10 except that this limitation shall not apply so as
11 to prevent the filing of one motion to reopen de-
12 scribed in clause (iv)” before the period at the
13 end;

14 (B) in subparagraph (C)(iv), in the matter
15 before subclause (I), by striking “The deadline
16 specified in subsection (b)(5)(C) for filing a mo-
17 tion to reopen does not apply” and inserting
18 “Any limitation under this section on the dead-
19 lines for filing such motions shall not apply”;
20 and

21 (C) in subparagraph (C)(iv), by adding
22 after and below subclause (III) the following
23 new sentence:

24 “The filing of a motion to reopen under
25 this clause shall stay the removal of the

1 alien pending final disposition of the mo-
2 tion including exhaustion of all appeals.”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by paragraph (1) shall take effect on the date of the
5 enactment of this Act.

6 (b) DEPORTATION PROCEEDINGS.—

7 (1) IN GENERAL.—Section 1506(c)(2)(A) of
8 VAWA–2000 is amended—

9 (A) in the matter before clause (i), by
10 striking “Notwithstanding any limitation im-
11 posed by law on motions” inserting “Notwith-
12 standing any limitation on the number of mo-
13 tions, or the deadlines for filing motions (in-
14 cluding the deadline specified in section
15 242B(c)(3) of the Immigration and Nationality
16 Act before the title III–A effective date),”;

17 (B) in the matter before clause (i), by
18 striking “there is no time limit on the filing of
19 a motion” and all that follows through “does
20 not apply” and inserting “such limitations shall
21 not apply to the filing of a single motion under
22 this subparagraph to reopen such proceedings”;
23 and

24 (C) by adding at the end the following:

1 “The filing of a motion under this subpara-
 2 graph shall stay the removal of the alien pend-
 3 ing a final disposition of the motion including
 4 the exhaustion of all appeals.”.

5 (2) EFFECTIVE DATE.—The amendments made
 6 by paragraph (1) shall take effect on the date of the
 7 enactment of this Act .

8 **SEC. 1338. REMOVAL PROCEEDINGS.**

9 (a) EXCEPTION TO REINSTATEMENT OF REMOVAL.—

10 (1) IN GENERAL.—Section 241(a)(5) of the Im-
 11 migration and Nationality Act (8 U.S.C. 1251(a)(5))
 12 is amended by adding at the end the following: “The
 13 provisions of this paragraph shall not apply to an
 14 alien who, before reinstatement of the removal order,
 15 sought relief as a VAWA petitioner, applied for sta-
 16 tus as a nonimmigrant under subparagraph (T) or
 17 (U) of section 101(a)(15), or applied for relief under
 18 section 240A(b)(2) or section 244(a)(3) (as in effect
 19 on March 31, 1997).”.

20 (2) EFFECTIVE DATE.—The amendment made
 21 by paragraph (1) shall take effect on the date of the
 22 enactment of this Act.

23 (b) TREATMENT OF BATTERY OR EXTREME CRU-
 24 ELTY AS EXCEPTIONAL CIRCUMSTANCES.—

1 (1) IN GENERAL.—Section 240(e)(1) of such
2 Act (8 U.S.C. 1230(e)(1)) is amended by inserting
3 “battery or extreme cruelty of the alien or any child
4 or parent of the alien or” after “exceptional cir-
5 cumstances (such as”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by paragraph (1) shall take effect on the date of the
8 enactment of this Act and shall apply to a failure to
9 appear that occurs before, on, or after such date.

10 **SEC. 1339. CONFORMING RELIEF IN SUSPENSION OF DE-**
11 **PORTATION PARALLEL TO THE RELIEF**
12 **AVAILABLE IN VAWA-2000 CANCELLATION**
13 **FOR BIGAMY.**

14 Section 244(a)(3) of the Immigration and Nationality
15 Act (as in effect before the title III–A effective date in
16 section 309 of the Illegal Immigration Reform and Immi-
17 grant Responsibility Act of 1996) shall be applied as if
18 “or by a United States citizen or lawful permanent resi-
19 dent whom the alien intended to marry, but whose mar-
20 riage is not legitimate because of that United States citi-
21 zen’s or permanent resident’s bigamy” were inserted after
22 “by a spouse or parent who is a United States citizen or
23 lawful permanent resident”.

1 **SEC. 1340. CORRECTION OF CROSS-REFERENCE TO CRED-**
2 **IBLE EVIDENCE PROVISIONS.**

3 (a) CUBAN ADJUSTMENT PROVISION.—The last sen-
4 tence of the first section of Public Law 89–732 (November
5 2, 1966; 8 U.S.C. 1255 note), as amended by section
6 1509(a) of VAWA–2000, is amended by striking
7 “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

8 (b) NACARA.—Section 202(d)(3) of the Nicaraguan
9 Adjustment and Central American Relief Act (8 U.S.C.
10 1255 note; Public Law 105–100), as amended by section
11 1510(a)(2) of VAWA–2000, is amended by striking
12 “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

13 (c) ILARAIRA.—Section 309(c)(5)(C)(iii) of the Ille-
14 gal Immigration and Reform and Immigrant Responsi-
15 bility Act of 1996 (division C of Public Law 104–208; 8
16 U.S.C. 1101 note), as amended by section 1510(b)(2) of
17 VAWA–2000, is amended by striking “204(a)(1)(H)” and
18 inserting “204(a)(1)(J)”.

19 (d) HRIFA.—Section 902(d)(1)(B)(iii) of the Hai-
20 tian Refugee Immigration Fairness Act of 1998 (division
21 A of section 101(h) of Public Law 105–277; 112 Stat.
22 2681–538), as amended by section 1511(a) of VAWA–
23 2000, is amended by striking “204(a)(1)(H)” and insert-
24 ing “204(a)(1)(J)”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect as if included in the enact-
3 ment of VAWA–2000.

4 **SEC. 1341. TECHNICAL CORRECTIONS.**

5 (a) TECHNICAL CORRECTIONS TO REFERENCES IN
6 APPLICATION OF SPECIAL PHYSICAL PRESENCE AND
7 GOOD MORAL CHARACTER RULES.—

8 (1) PHYSICAL PRESENCE RULES.—Section
9 240A(b)(2)(B) of the Immigration and Nationality
10 Act (8 U.S.C. 1229b(b)(2)(B)) is amended—

11 (A) in the first sentence, by striking
12 “(A)(i)(II)” and inserting “(A)(ii)”; and

13 (B) in the fourth sentence, by striking
14 “section 240A(b)(2)(B)” and inserting “this
15 subparagraph, subparagraph (A)(ii),”.

16 (2) MORAL CHARACTER RULES.—Section
17 240A(b)(2)(C) of such Act (8 U.S.C.
18 1229b(b)(2)(C)) is amended by striking
19 “(A)(i)(III)” and inserting “(A)(iii)”.

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall be effective as if included in
22 the enactment of section 1504(a) of VAWA (114
23 Stat. 1522).

24 (b) CORRECTION OF CROSS-REFERENCE ERROR IN
25 APPLYING GOOD MORAL CHARACTER.—

1 (1) IN GENERAL.—Section 101(f)(3) of the Im-
2 migration and Nationality Act (8 U.S.C. 1101(f)(3))
3 is amended by striking “(9)(A)” and inserting
4 “(10)(A)”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall be effective as if included in
7 the enactment of the Illegal Immigration Reform
8 and Immigrant Responsibility Act of 1996 (Public
9 Law 104–208).

10 (c) PUNCTUATION CORRECTION.—Effective as if in-
11 cluded in the enactment of section 5(c)(2) of VAWA–
12 2000, section 237(a)(1)(H)(ii) of such Act (8 U.S.C.
13 1227(a)(1)(H)(ii)) is amended by striking the period at
14 the end and inserting “; or”.

15 (d) CORRECTION OF DESIGNATION AND INDENTA-
16 TION.—The last sentence of section 212(a)(9)(C)(ii) of the
17 Immigration and Nationality Act (8 U.S.C.
18 1182(a)(9)(C)(ii)), as added by section 1505(a) of
19 VAWA–2000, is amended—

20 (1) by striking “section 212(a)(9)(C)(i)” and
21 inserting “clause (i)”;

22 (2) by redesignating paragraphs (1) and (2),
23 and subparagraphs (A) through (D) of paragraph
24 (2), as subclauses (I) and (II), and items (aa)
25 through (dd) of subclause (II), respectively; and

1 (3) by moving the margins of each of such
2 paragraphs and subparagraphs 6 ems to the right.

3 (e) ADDITIONAL TECHNICAL CORRECTION.—Section
4 245(l)(2)(B) of such Act (8 U.S.C. 1255(l)(2)(B)) is
5 amended by striking “(10(E))” and inserting “(10)(E))”.

6 **Subtitle D—Ensuring Crime Victim**
7 **Access to Legal Services**

8 **SEC. 1351. ENSURING CRIME VICTIM ACCESS TO LEGAL**
9 **SERVICES.**

10 (a) IN GENERAL.—Section 502 of the Departments
11 of Commerce, Justice, and State, the Judiciary, and Re-
12 lated Agencies Appropriations Act, 1998 (Public Law
13 105–119; 111 Stat. 2510) is amended—

14 (1) by amending subparagraph (C) of sub-
15 section (a) to read as follows:

16 “(C) subsection (a)(11) of such section
17 504 shall not be construed to prohibit a recipi-
18 ent from using Corporation funds and funds de-
19 rived from a source other than the Corporation
20 to provide legal assistance to—

21 “(i) an alien who has been battered or
22 subjected to extreme cruelty or who has
23 been a victim of sexual assault or a victim
24 of trafficking in the United States;

1 “(ii) an alien whose child has been
2 battered or subjected to extreme cruelty or
3 has been a victim of sexual assault or a
4 victim of trafficking in the United States,
5 if the alien has not actively participated in
6 the battery, extreme cruelty, sexual as-
7 sault, or trafficking; or

8 “(iii) an alien who qualifies (or whose
9 child qualifies) for status under section
10 101(a)(15)(U) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1101(a)(15)(U)) .”;
12 and

13 (2) by striking paragraph (2) of subsection (b)
14 and inserting the following:

15 “(2) The term ‘victim of trafficking’ has the
16 meaning given such term in section 103(14) of the
17 Trafficking Victims Protection Act of 2000 (Public
18 Law 106–286; 22 U.S.C. 7102(14)). ”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to expenditures made on or after
21 the date of the enactment of this Act with respect to ap-
22 propriations made for fiscal years beginning before, on,
23 or after such date.

24 (c) CONSTRUCTION.—Nothing in the amendments
25 made by subsection (a) shall be construed to restrict the

1 legal assistance provided to victims of severe forms of traf-
 2 ficking and certain family members allowed under section
 3 107(b)(1) of the Trafficking Victims Protection Act of
 4 2000 (Public Law 106–286; 22 U.S.C. 7105(b)(1)).

5 **Subtitle E—Eligibility for Certain**
 6 **Public Benefits of Aliens Suf-**
 7 **fering From Domestic Abuse**

8 **SEC. 1361. ELIGIBILITY FOR CERTAIN PUBLIC BENEFITS OF**
 9 **ALIENS SUFFERING FROM DOMESTIC ABUSE.**

10 (a) EXEMPTION FROM SSI AND FOOD STAMPS
 11 BAN.—Section 402(a)(2) of the Personal Responsibility
 12 and Work Opportunity Reconciliation Act of 1996 (8
 13 U.S.C. 1612(a)(2)) is amended by adding at the end the
 14 following new subparagraph:

15 “(M) BATTERED AND CRIME VICTIM
 16 ALIENS.—With respect to eligibility for benefits
 17 for a specified Federal program (as defined in
 18 paragraph (3)), paragraph (1) shall not apply
 19 to an alien who—

20 “(i) is described in section 431(c);

21 “(ii) is described in section 431(b)
 22 and also is described in section 431(c),
 23 other than paragraphs (1)(B), (2)(B), and
 24 (3)(B) of such section; or

1 “(iii) is described in a clause (i) or (ii)
 2 and was lawfully admitted as a permanent
 3 resident.”.

4 (b) EXEMPTION FROM TANF, SOCIAL SERVICES
 5 BLOCK GRANT, AND MEDICAID BAN.—Section 402(b)(2)
 6 of such Act (8 U.S.C. 1612(b)(2)) is amended by inserting
 7 after subparagraph (F) the following new subparagraph:

8 “(G) BATTERED AND CRIME VICTIM
 9 ALIENS.—An alien who—

10 “(i) is described in section 431(c);

11 “(ii) is described in section 431(b)
 12 and also is described in section 431(c),
 13 other than paragraphs (1)(B), (2)(B), and
 14 (3)(B) of such section; or

15 “(iii) is described in clause (i) or (ii)
 16 and was lawfully admitted as a permanent
 17 resident.”.

18 (c) EXEMPTION FROM 5-YEAR BAN FOR FEDERAL
 19 MEANS-TESTED PUBLIC BENEFITS.—Section 403(b) of
 20 such Act (8 U.S.C. 1613(b)) is amended by adding at the
 21 end the following new paragraph:

22 “(3) BATTERED AND CRIME VICTIM ALIENS.—

23 An alien who—

24 “(A) is described in section 431(c);

1 “(B) is described in section 431(b) and
 2 also is described in section 431(c), other than
 3 paragraphs (1)(B), (2)(B), and (3)(B) of such
 4 section; or

5 “(C) is described in subparagraph (A) or
 6 (B) and was lawfully admitted as a permanent
 7 resident.”.

8 (d) STATUS AS QUALIFIED ALIEN FOR VAWA PETI-
 9 TIONERS AND NONIMMIGRANT “U” AND “T” VISA APPLI-
 10 CANTS AND VISA HOLDERS.—Section 431(c) of such Act
 11 (8 U.S.C. 1641(b)) is amended—

12 (1) in paragraph (1)(B)—

13 (A) in clause (i), by striking “or a child”
 14 and inserting “, child, or parent” and by strik-
 15 ing “or (iv)” and inserting “(iv), or (vii)”;

16 (B) in clause (ii), by striking “(as in effect
 17 prior to April 1, 1997)”;

18 (C) in clause (iii), by striking the period at
 19 the end and inserting a comma;

20 (D) in clause (iv), by striking the semi-
 21 colon at the end and inserting a comma;

22 (E) in clause (v), by striking the semicolon
 23 at the end and inserting “, or”; and

24 (F) by adding at the end the following new
 25 clause:

1 “(vi) status as a VAWA petitioner (as
 2 defined in section 101(a)(51) of such Act),
 3 other than such a petitioner described in
 4 clause (i) or (ii);”;

5 (2) by striking “or” at the end of paragraph
 6 (2)(B);

7 (3) by striking the period at the end of para-
 8 graph (3)(B) and inserting “; or”; and

9 (4) by inserting after paragraph (3)(B) the fol-
 10 lowing new paragraph:

11 “(4) an alien who has applied for and not been
 12 denied status as a nonimmigrant under clause (i) or
 13 (ii) of subparagraph (T), or clause (i) or (ii) of sub-
 14 paragraph (U), of section 101(a)(15) of the Immi-
 15 gration and Nationality Act”.

16 (e) CONFORMING DEFINITION OF “FAMILY” USED
 17 IN LAWS GRANTING FEDERAL PUBLIC BENEFIT ACCESS
 18 FOR BATTERED ALIENS TO STATE FAMILY LAW.—

19 (1) IN GENERAL.—Section 431(c) of such Act
 20 (8 U.S.C. 1641(c)) is amended—

21 (A) in paragraph (1)(A), by striking “by a
 22 spouse or a parent, or by a member of the
 23 spouse or parent’s family residing in the same
 24 household as the alien and the spouse or parent
 25 consented to, or acquiesced in, such battery or

1 cruelty” and inserting “by a spouse, parent,
2 son, or daughter, or by any individual having a
3 relationship with the alien covered by the civil
4 or criminal domestic violence statutes of the
5 State or Indian country where the alien resides,
6 or the State or Indian country in which the
7 alien, the alien’s child, or the alien child’s par-
8 ents received a protection order, or by any indi-
9 vidual against whom the alien could obtain a
10 protection order,”;

11 (B) in paragraph (2)(A), by striking “by a
12 spouse or parent of the alien (without the active
13 participation of the alien in the battery or cru-
14 elty), by a member of the spouse or parent’s
15 family residing in the same household as the
16 alien and the spouse or parent consented or ac-
17 quiesced to such battery or cruelty,” and insert-
18 ing “by a spouse, parent, son, or daughter of
19 the alien (without the active participation of the
20 alien in such battery) or by any individual hav-
21 ing a relationship with the alien covered by the
22 civil or criminal domestic violence statutes of
23 the State or Indian country where the alien re-
24 sides, or the State or Indian country in which
25 the alien, the alien’s child, or the alien child’s

1 parents received a protection order, or by any
2 individual against whom the alien could obtain
3 a protection order,”; and

4 (C) in paragraph (3)(A), by striking “by a
5 spouse or parent, or by a member of the spouse
6 or parent’s family residing in the same house-
7 hold as the alien and the spouse or parent con-
8 sented or acquiesced to such battery or cru-
9 elty,” and inserting “by a spouse, parent, son,
10 or daughter, or by any individual having a rela-
11 tionship with the alien covered by the civil or
12 criminal domestic violence statutes of the State
13 or Indian country where the alien resides, or
14 the State or Indian country in which the alien,
15 the alien’s child, or the alien child’s parents re-
16 ceived a protection order, or by any individual
17 against whom the alien could obtain a protec-
18 tion order,”.

19 (2) FEDERAL ATTRIBUTION OF SPONSOR’S IN-
20 COME AND RESOURCES.—Section 421(f)(1)(A) of
21 such Act (8 U.S.C. 1631(f)(1)(A)) is amended—

22 (A) in clause (i), by striking “by a spouse
23 or parent, or by a member of the spouse or par-
24 ent’s family residing in the same household as
25 the alien and the spouse or parent consented or

1 acquiesced to such battery or cruelty,” and in-
2 serting “by a spouse, parent, son, or daughter,
3 or by any individual having a relationship with
4 the alien covered by the civil or criminal domes-
5 tic violence statutes of the State or Indian
6 country where the alien resides, or the State or
7 Indian country in which the alien, the alien’s
8 child, or the alien child’s parents received a pro-
9 tection order, or by any individual against
10 whom the alien could obtain a protection
11 order,”;

12 (B) in clause (ii), by striking “by a spouse
13 or parent of the alien (without the active par-
14 ticipation of the alien in the battery or cruelty),
15 or by a member of the spouse or parent’s family
16 residing in the same household as the alien and
17 the spouse or parent consented or acquiesced to
18 such battery or cruelty,” and inserting “by a
19 spouse, parent, son, or daughter of the alien
20 (without the active participation of the alien in
21 the battery or cruelty) or by any individual hav-
22 ing a relationship with the alien covered by the
23 civil or criminal domestic violence statutes of
24 the State or Indian country where the alien re-
25 sides, or the State or Indian country in which

1 the alien, the alien’s child, or the alien child’s
 2 parents received a protection order, or by any
 3 individual against whom the alien could obtain
 4 a protection order.”;

5 (C) by striking “or” before “(iii) the
 6 alien”; and

7 (D) by inserting “, or (iv) the alien is de-
 8 scribed in section 431(c)(4)” before “and the
 9 battery or cruelty”.

10 (f) ELIMINATION OF SPONSOR LIABILITY AND RE-
 11 SPONSIBILITY OR REIMBURSEMENT WITH RESPECT TO
 12 BENEFITS PROVIDED TO BATTERED ALIENS.—Section
 13 423(d) of the Personal Responsibility and Work Oppor-
 14 tunity Reconciliation Act of 1996 is amended by adding
 15 after paragraph (11) the following new paragraph:

16 “(12) Benefits provided to an alien who—
 17 “(A) is described in section 431(c); or
 18 “(B) is described in section 431(b) and
 19 also is described in section 431(c), other than
 20 paragraphs (1)(B), (2)(B), and (3)(B) of such
 21 section.”.

22 (g) CONFORMING AMENDMENT CONFIRMING
 23 IIRAIRA’S GRANT OF PUBLIC AND ASSISTED HOUSING
 24 TO ALL QUALIFIED ALIENS, INCLUDING BATTERED IM-
 25 MIGRANTS.—Section 214 of the Housing and Community

1 Development Act of 1980 (42 U.S.C. 1436a) is amend-
2 ed—

3 (1) in subsection (a)—

4 (A) in paragraph (6), by striking “or” at
5 the end;

6 (B) by redesignating paragraph (7) as
7 paragraph (8); and

8 (C) by inserting after paragraph (6) the
9 following:

10 “(7) a qualified alien described in section 431
11 of the Personal Responsibility and Work Oppor-
12 tunity Reconciliation Act of 1996 (8 U.S.C. 1641),
13 or”; and

14 (2) in subsection (c)—

15 (A) in paragraph (1)(A), by striking “(6)”
16 and inserting “(7)”; and

17 (B) in paragraph (2)(A), in the matter
18 preceding clause (i), by inserting “(other than
19 a qualified alien described in 431 of the Per-
20 sonal Responsibility and Work Opportunity
21 Reconciliation Act of 1996 (8 U.S.C. 1641)”
22 after “any alien”.

23 (h) IMPLEMENTATION.—Not later than 180 days
24 after the date of the enactment of this Act, the Secretary
25 of Homeland Security, Secretary of Agriculture, the Sec-

1 retary of Health and Human Services, and the Secretary
 2 of Housing and Urban Development shall promulgate reg-
 3 ulations for its officials to implement this section.

4 (i) **EFFECTIVE DATE.**—The amendments made by
 5 this section apply to applications for public benefits and
 6 public benefits provided on or after the date of the enact-
 7 ment of this Act.

8 **Subtitle F—Law Enforcement** 9 **Training Grants**

10 **SEC. 1381. GRANTS FOR LAW ENFORCEMENT TRAINING** 11 **PROGRAMS TO IDENTIFY AND PROTECT VIC-** 12 **TIMS OF TRAFFICKING.**

13 (a) **DEFINITIONS.**—In this section:

14 (1) **ACT OF TRAFFICKING.**—The term “act of
 15 trafficking” means an act or practice described in
 16 paragraph (8) or (9) of section 103 of the Traf-
 17 ficking Victims Protection Act of 2000 (22 U.S.C.
 18 7102).

19 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
 20 ty” means a State or a local government.

21 (3) **STATE.**—The term “State” means any
 22 State of the United States, the District of Columbia,
 23 the Commonwealth of Puerto Rico, Guam, the
 24 United States Virgin Islands, the Commonwealth of
 25 the Northern Mariana Islands, American Samoa,

1 and any other territory or possession of the United
2 States.

3 (4) VICTIM OF TRAFFICKING.—The term “vic-
4 tim of trafficking” means an individual subjected to
5 an act of trafficking.

6 (b) GRANTS AUTHORIZED.—The Attorney General
7 may award grants to eligible entities to provide training
8 to State and local law enforcement personnel to identify
9 and protect victims of trafficking.

10 (c) USE OF FUNDS.—A grant awarded under this
11 section shall be used for any one or more of the following:

12 (1) To train law enforcement personnel to iden-
13 tify and protect victims of trafficking, including
14 training such personnel to utilize Federal, State, or
15 local resources to assist victims of trafficking.

16 (2) To train law enforcement or State or local
17 prosecutors to identify, investigate, or prosecute acts
18 of trafficking.

19 (3) To train law enforcement or State or local
20 prosecutors to utilize laws that prohibit acts of traf-
21 ficking.

22 (4) To assist in the development of State and
23 local laws to prohibit acts of trafficking.

24 (d) RESTRICTIONS.—

1 (1) SUPPLEMENT NOT SUPPLANT.—A grant
2 awarded under this section shall be used to supple-
3 ment and not supplant other Federal, State, and
4 local public funds available to carry out the training
5 described in subsection (c).

6 (2) ADMINISTRATIVE EXPENSES.—An eligible
7 entity that receives a grant under this section may
8 use not more than 5 percent of the total amount of
9 such grant for administrative expenses.

10 (3) NONEXCLUSIVITY.—Nothing in this section
11 may be construed to restrict the ability of an eligible
12 entity to apply for or obtain funding from any other
13 source to carry out the training described in sub-
14 section (c).

15 (e) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated \$10,000,000 for each
17 of fiscal years 2006 through 2010 to carry out this sec-
18 tion.

○